THE LINDSAY MIRACLE: Carey McWilliams

THE NATION

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THE ROSENBERG CASE

'INVITATION to an INQUEST'

Review by FRED J. COOK

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LETTERS

Benefit to all

Washington, D.C.

Dear Sirs: I must dissent from Milton Viorst's rather morose attack on our efforts to secure a non-proliferation treaty ["The Nuclear Club: Why the Outs Want In," *The Nation*, Oct. 18].

Certainly we are aware that some of the have-nots may be unwilling to disclaim nuclear weapons without indications of restraint on the part of the club members. I would refer Mr. Viorst to William Foster's realistic appraisal in the July *Foreign Affairs*, where explicit mention is made of these contingencies.

However, none of this warrants Mr. Viorst's conclusion that "the draft treaty on proliferation burdens only one group of signers, without any demonstrable benefit to all."

The prevailing distrust and sensitivity have thus far barred the path to meaningful disarmament between the super powers. In this impasse our most promising course is to seek limited agreements to control the weaponry now in place. The spread of atomic capability to smaller countries would "nuclearize" local, traditional disputes, increasing tension and inevitably the risk of actual use.

The prevention of this development is most assuredly a demonstrable benefit to us all. *Rep. Seymour Halpern*
6th District, New York

The teacher rift

New Haven, Conn.

Dear Sirs: While some points of substance are raised by Stanley Elam in his article on teachers' unions ["Teachers' Unions: Rift Without Differences," *The Nation*, Oct. 18], the whole is remarkably superficial. . . .

Membership in the various branches of the NEA is often a condition of employment. . . . Sixty to 70 per cent of the directorship of the NEA is composed of school administrators. . . . How can the NEA possibly represent teachers when it is dominated by the very men from whom they must seek altered conditions and pay? . . .

Mr. Elam should have been aware that the remarkable successes of the AFT in Hartford, New York, Cleveland and in other cities have only been possible because of the interlocking support offered by the AFL-CIO, both locally and nationally, a support which removes the teachers from the "professional" isolation the NEA prefers. . . . *Robert L. Herbert*
Dept. of the History of Art
Yale University

Bloomington, Ind.

Dear Sirs: My thesis is that no fundamental ideological issues or principles stand in the way of NEA-AFT merger and that much could be gained by merger. When I read that a Yale professor considers my defense of this thesis "remarkably superficial," I expected some profound or at least some probing remarks to follow. Alas, Mr. Herbert evidently missed my major points, he saw some that weren't there, and he parrots some standard AFT dogma which is becoming quite obsolete as NEA affiliates change position. . . .

It is true that much pressure—sometimes overt, often subtle and covert—has been applied by administrators to force NEA membership upon teachers. It is also true—I said this myself—that AFT competition is forcing the NEA into a new militancy on behalf of teachers. As this militancy grows, superintendents have less and less reason to prefer NEA affiliation. The NEA Department of Classroom Teachers can, if it chooses, control NEA policy, and it may yet do so. . . .

When Mr. Herbert speaks of the "remarkable success" of the AFT in Hartford, I presume he means in winning a representation election. He ignores the fact that the NEA won the next four such elections in his state—Stratford, Manchester, Meriden and Berlin—cities with a much larger combined teacher corps than Hartford. Now let's be fair and see which group wins more support for good schools. My guess is that there won't be much difference between the two. But if Connecticut AFT and NEA affiliates would combine forces it seems reasonable to expect that they could accomplish a good deal more. *Stanley Elam*

Correction

In Ralph Nader's "The Corvair Story" (*The Nation*, Nov. 1), the reference (p. 298, col. 3) is to World War II, not World War I; and (p. 300, col. 3) the estimate is based on 750,000 cars, rather than 1 million.

Threat to Latin America

Danville, Va.

Dear Sirs: Reading Donald D. Ranstead's article on Latin America ["Latin America: Continent on a Teeterboard," *The Nation*, Nov. 1] I was struck by the thought that perhaps Mr. Ranstead has been in Chile a bit too long. He seems to have lost sight of the security of the United States of America.

Anyone who is at all informed on Latin America will agree with Mr. Ranstead's basic premise, but this does not diminish the Communist and Fidelismo threats to Latin America. Foremost in the minds of the Johnson Administration is, and should be, preventing another Communist take-over as occurred in Cuba.

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Brazil: Second Act

Official Washington is reported to be "stunned" by the recent intensification of dictatorship in Brazil. Yet this second phase was clearly predictable, and no one should have been less surprised than the State Department experts on Latin America, for they were the authors of the script from which the Brazilian militarists played their roles.

If their memories are short, the men at the Brazil desk could utilize recent back numbers of *The Nation* for a quick refresher course. In an editorial, "The Cauldron of Brazil" (April 13, 1964), we discussed the coup against Joao Goulart as an aspect of American policy. In a follow-up editorial (April 27) we noted the jubilation of Washington over the events in Brazil; in the same issue Andrew Gunder Frank demonstrated quite conclusively that, even from Washington's viewpoint, there was nothing to cheer about. In a piece on "Non-Recognition: the Diplomatic Trap" (May 4) Richard A. Falk called attention to the folly that was implicit in President Johnson's precipitate approval of the Branco cabal which overthrew Goulart. On June 22 an editorial, "Under the Volcano," called attention to the way in which the Branco regime was driving out intellectuals, suppressing academic freedom, stripping its opponents of political rights, etc. A further editorial, "Brazilian Witch Hunt" (October 12), was called in question by the Brazilian Embassy. Ronald H. Chilcote's reply, "Brazil: Suppressing the Future" (November 23), spelled out in elaborate detail what had happened and what the consequences would be. There could scarcely be less room for mystery, unless the State Department professes mystification to cover up its recurrent failures.

When Branco seized power on March 31, 1964, Brazil quickly became Washington's favorite Latin American country, supplanting Chile, which had turned out not to be reliably reactionary. The Branco regime, like a new mistress, was duly rewarded. In the period from April 1, 1964, to June 30, 1965, Uncle Sam poured $513 million into Brazil, far in excess of aid to any other country in the hemisphere and in contrast to a total of $737 million in the three years preceding the Branco coup. Branco's Brazil was not ungrateful. When President Johnson needed OAS cooperation in his invasion of Santo Domingo, Brazil was the first to send in troops.

For Washington, it seems nevertheless to have been an expensive bargain. Neither military force nor American largess has availed to produce a stable regime in Brazil, much less one based on justice. When Branco and the other generals seized power, they issued Institutional Act. No. 1, proclaiming sweeping powers for the new boss and seemingly destroying all opposition. The gubernatorial elections of October 3 were carefully rigged, and no trouble was anticipated by either the American or Brazilian partners to the compact. Yet the government candidates suffered a resounding defeat. The generals had to ask themselves: "What would have happened if there had been really free elections?" Institutional Act No. 2 is the Branco-army reaction. Whatever was not forbidden before is now to be rigidly controlled. The opposition parties are to lose the latitude which the 1964 decrees left them. The Supreme Court is to be packed. Former presidents are to be tried by military courts—a provision aimed at former President Juscelino Kubitscheck. The camouflage is to be stripped off.

This self-revelation by the military dictatorship distresses Washington. It had hoped that these necessary if disagreeable steps would be taken by the Brazilian Congress, which was largely hand-picked to do such work, but instead the Institutional Act has been laid down by presidential decree. Washington had looked to a more seemly abrogation of democratic forms. Now it is embarrassed, and Senator Morse causes the Johnson Administration — and Under Secretary of State Thomas C. Mann—further discomfiture by crying that we are transforming the Alliance for Progress into an alliance for ever-increasing militarization in the Western Hemisphere. This is what our anti-Red policy has wrought. It is hard to see what further mischief it can create, but there is bound to be a third act—one in which the Brazilian people will have their say. The State Department may find that last act really frightening.

Dick to the Rescue

The next Presidential election is still three years off and much may happen in that time, but some political doctors, keeping vigil at the bedside of the Republican Party, think that Richard M. Nixon is still the most promising GOP candidate. If so, the best lifeguards are nonswimmers, and stuttering is a qualification for oratory. From 1960 on, Nixon has been a consistent loser and a graceless one, as his outburst against the press after his gubernatorial defeat in California demonstrated. More evidence is piled up by his performance in the New Jersey election, in which Governor Richard J. Hughes not only won a landslide victory but carried Democrats to majorities in both houses of the legislature, for the first time since Woodrow Wilson did it in 1913.

State Senator Wayne Dumont, Governor Hughes's opponent, went into the campaign a loser. One of his principal supporters advised him to cut his throat rather than commit suicide slowly in a drawn-out campaign. However, when a professor at Rutgers declared in a teach-in that he would welcome a Vietcong vic-

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tory, Dumont and his advisers saw a ray of hope which they quickly magnified into a searchlight beam.

Discarding practically all other issues, Dumont concentrated on Professor Genovese. The fellow had to go. The Rutgers board of trustees refused to fire him; he had tenure, and he had made his imprudent remark outside the classroom. Hughes refused to intervene. He protested that he agreed with Administration policy on Vietnam, but the question was one of academic freedom.

This was a principled but somewhat perilous position—at least it seemed perilous at the outset. Especially in its northern counties, New Jersey abounds in organizations and individuals who equate patriotism with conformity. Many of them dislike professors with the bitter suspicion characteristic of the unschooled. It was toward this group that Nixon made his pitch when Dumont called on him for help.

Other supporters, in and out of the state, were more scrupulous. Senator Case took essentially the same position as Governor Hughes; General Eisenhower chose to ignore the Genovese issue. But Nixon would not, indeed could not, for he is drawn to this sort of argument by all his inclinations and political experience. Exploitation of the Communist issue had brought him to Washington in the first place (one of the dirtiest campaigns in American history was that of Nixon against Helen Gahagan Douglas) and the Hiss case gave him the Vice Presidency. But this time the gimmick did not work.

In a letter to *The New York Times*, Nixon explained his stand on Genovese at great length. Every American, he said, is for free speech and academic freedom, and of course no American is for these precious rights more than Richard M. Nixon. But it is the responsibility of the state not only to protect the rights of the individual but to "defend itself against enemies whose victory would deny freedom of speech to all." Genovese was evidently one of these enemies, and the victory he welcomed would extinguish the right of free speech "throughout the world." The line must be drawn somewhere, and Nixon drew it for the free world, for our fighting men and for Dumont.

This sort of boundless exaggeration, which would be hysterical if it were honest, is Nixon's stock in trade, as it was Joe McCarthy's before him. Millions of Americans are still willing to believe that opposition to the kind of war we are fighting in Vietnam can bring down our government and our institutions. But these millions, it turned out, are not unduly concentrated in New Jersey. The voters there were levelheaded enough to give Nixon the inattention he deserved. "Maybe we figured it wrong," one of Dumont's aides said after the election. They did, and henceforth Republicans in a like situation will think twice before putting all their cards on the conformist issue—and three times before calling on Nixon.

Actually the political moral can be pinpointed. A fairly large percentage of New Jersey voters—so the polls indicated—professed never to have heard of the Genovese case despite the noisy airing it received. Of those who had heard of it, 51 per cent thought that "something should be done" about Genovese. In itself this would provide cold comfort for those concerned about academic freedom. But presumably this majority was satisfied with the general performance of the Hughes administration and did not propose to let possible disagreement over a peripheral and really irrelevant issue sway their decisions. But if Governor Hughes had become alarmed, if he had started to retreat or equivocate, the issue might have been damaging. It was the Governor's refusal to panic—the general air of confidence he exhibited—that made it possible for him to turn the issue to his advantage.

The Negro's Strange Bedfellows

White voters who have become jaded by the unexciting experience of choosing between candidates who promise them everything must sometimes envy the Southern Negro, who, after the fight that gives him the right to vote, must then decide cannily between several candidates who promise him as little as possible. Democracy for him is really an adventure.

Clarence Mitchell, spokesman for the NAACP office in Washington, last week illustrated the trickiness of such decision making.

Sen. Richard Russell of Georgia, he said, just possibly might be the man for the Negroes to support when he comes up for re-election next year. Russell! The man who has led the Southern forces for years in opposition to all civil rights measures? Yes, the same. Mitchell's reasoning goes thus: As leader of the Southern bloc, Russell, a close friend of Lyndon Johnson, makes it easier for the President to deal with that region. If Russell were defeated, who would take over the leadership of the bloc? Strom Thurmond? Or George Wallace, perhaps, after defeating Sen. John Sparkman? Compared to either, Russell looks very good to Mitchell. For one thing, "Russell gives intelligent leadership — he knows when he's licked. I doubt that we could have gotten the civil rights bill through in 1964 without Russell's help. He was wise enough to know that anything less than what was passed would have brought on a blood bath."

For some really stunning delicacy of choice, Mitchell posed this hypothesis: What if Sen. James Eastland were opposed by ex-Governor Ross Barnett? Mitchell couldn't see Negroes backing Eastland openly, but he did not think it unreasonable for them to back him against such opposition: "I don't think they would abstain and the NAACP would never advocate abstention."

Would the Louisiana Negro be wiser to vote for McKeithen or for Ellender, if that race comes off as is now rumored likely? Should they vote for the loudmouthed economic liberal Wallace, who has abused them verbally so much, or for the quiet economic liberal Sparkman, who has never made even one semicourageous statement in their behalf?

During these mostly barren years of transition,

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Mitchell believes, the Negro must avoid moral judgments and squeeze what he can from his vote in a coldly practical fashion. Representing a race that has so much to forgive, reasonable forgiveness is what Mitchell would advocate.

"I think if a politician who had always been a segregationist came to the Negroes and said, 'I'll change my position. I was a segregationist because I had to be to get elected. But now I'll openly work for your best interests'—it would be worth taking a risk on him. Our risks have paid off in the past. I mean, notably the man in the White House."

So far, however, there seems to be no great rush among Southern politicians to declare their change of heart. The risk that confronts the Negro remains something other than that of a false promise.

Sick Children

Washington officials of Project Head Start are beginning to realize that they may have a medical bear by the tail. A survey of the health status of more than 1,400 preschool children, conducted last summer by five university-affiliated hospitals in Boston and reported in a two-part article in the Boston *Traveler*, reveals that nearly a third of them are seriously ill and in urgent need of medical care. If the same rate of disability holds for children of the economically deprived throughout the country—and if the Office of Economic Opportunity is serious about giving these children an opportunity to grow up in reasonably good health—the cost could run into billions. At the moment OEO has no medical care program, only a laudable curiosity about the health of the poor. To date no surveys have been made of adult health.

The pediatric findings, plus a couple of preliminary studies of teen-agers involved in the OEO retraining program, do, however, provide a pretty good clue to the medical shape of things as they are—and as they are likely to become—in the rural and urban slums of the country. In short, the American Medical Association's "best medical care in the world" has failed to reach them. Dr. Gardner Edwards, a Massachusetts General Hospital internist who participated in the program, says: "One thing hits home when you see these children: How come no one spotted their problems sooner—and did something about them?"

Poison in the Air

The awesome dimensions of the air pollution problem are brought out in two notable articles: Edmund K. Faltermayer's "We Can Afford Clean Air" in the November *Fortune*, and Gordon D. Friedlander's "Airborne Asphyxia: An International Problem" in the *IEEE Spectrum*. Faltermayer's piece is featured on the cover as "A *Fortune* Proposition on Air Pollution," which gives it full editorial sanction. Since Friedlander is a staff writer for the Institute of Electrical and Electronics Engineers, his article may be construed as reflecting in some measure the official view of the largest engineering society in the world, and one of the most influential.

If these articles were not so authoritative in their marshaling and interpretation of facts, they would be regarded as alarmist; they are in fact sensational in the best journalistic sense. Friedlander quotes a public health official: "Our urban civilization stands a much better chance of being suffocated by air pollution than of being annihilated by atomic weapons." Speaking for himself, Friedlander regards the air pollution problem in New York as "so far out of control that this writer could be panicked into leaving the city after reviewing his own copy." But where would he go—if he had to live in a city? Almost all of the megalopoli, both here and abroad, are in the same state.

The statistics on our own situation are little short of appalling. The gaseous and particulate refuse that is discharged into U.S. air every year is roughly equal in weight to the solid trash disposed of by departments of sanitation, and each exceeds the country's steel production of some 130 million tons. What the public sees is not the worst of it. A monthly sootfall of 60 tons per square mile is not exceptional in Manhattan, but the principal damage is to curtains. Some of the gaseous pollutants are far more dangerous: Power stations burning coal, or heavy fuel oil, catch 99 per cent of the soot before it leaves their stacks, but the sulfur dioxide goes right on into the atmosphere—some 800 tons a day for a big plant. The emission of carbon monoxide and unburned hydrocarbons from automobile exhausts can be more than halved by available devices, but emission of nitrogen oxides is uncontrolled. Exterior house paint may be blackened by hydrogen sulfide, and various other pollutants corrode metal, disintegrate stone, and do other damage to materials. In human tissue these poisons do not appear to be as carcinogenic as cigarette smoke, but they are linked to asthma, pneumonia, tuberculosis, emphysema and other respiratory diseases. The chairman of a panel of medical experts at the 1962 National Conference on Air Pollution Control termed the evidence that air pollution contributes to chronic respiratory illness "overwhelming"—and things have become much worse since then.

What are we to do? Faltermayer, who certainly hasn't got it in for industry, praises anti-pollution efforts by some companies, but calls industry's record as a whole "dismal." He shows how an expenditure of about $3 billion a year for clean air would sharply reduce $11 billion a year in property damage alone. For electric utilities, maximum use of gas as fuel is advisable, and nuclear energy, pumped storage and mine-mouth generation (when the mine is not near an urban area) should be further developed. In cities like New York where, as Faltermayer puts it, the residents inhale part of their garbage in the smoke from 12,000 apartment house incinerators, consideration should be given to the European method of burning garbage in steam and power plants, with little emis-

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sion of smoke, and research should be pressed on far-out techniques like trash-carrying pipe lines to eliminate costly pickup services.

Automobile pollution is a subject in itself. Everyone knows how the auto industry has been dragging its feet on factory installation of control accessories. And is it necessary to equip passenger automobiles with 400 h.p. engines, when a tenth of that horsepower is perfectly adequate for a light car? Nor can Detroit be assured that the internal combustion engine is the last word in powering automobiles. Several companies, including General Dynamics, are experimenting with electric automobiles, and in England research is being done on cars operating on fuel cells generating power for electric motors. With air-borne chemicals endangering the health of the urban population, a small fraction of missile and space money might well be diverted to research on cleaning up man's most precious resource—the terrestrial atmosphere.

The Lindsay Miracle

John V. Lindsay's victory in New York is, first of all, a personal triumph. Without exception, the political wiseacres said it could not be done—the Democrats, with a 7-to-2 margin in registrations, were too deeply entrenched in power. Demographic factors favored them: more than 1 million middle-class New Yorkers had moved to the suburbs in the last decade. The famous New York ethnic geography also favored the Democrats. Lindsay, a white, Anglo Saxon, "first family" Protestant—St. Paul's, Yale, an Episcopalian and, worst of all, a *Republican*—seemed laughably miscast in terms of the conventional political anthropology. In March, Mayor Wagner looked like an easy victor; by no means had he been the worst mayor in the city's history. With all this in mind, Lindsay's decision to run against Wagner was an act of rare political courage. But the first significant polls indicated that he had been shrewd; the Mayor was far more vulnerable than the "pros" had thought.

Then came a series of bad breaks for Lindsay: the withdrawal of Wagner (Beame could avoid some of the onus that had attached to the Wagner administration), the newspaper strike, and the television antics of William Buckley. Worst, Lindsay had not been able to put together a real fusion ticket; Mollen and Costello, his "team," were both liabilities. But Lindsay kept campaigning—walking the streets, talking to the people—while his manager, Robert Price, set up an amazing "amateur" political organization, well financed to be sure but staffed by volunteers and housed in storefronts, on the street level. Price's achievement must be measured against the fact that the Republican organization in the city was decrepit, inefficient and, in many areas, nonexistent. However, none of this would have availed if Lindsay had not been an immensely attractive candidate and a fine campaigner. All sorts of theories will be spun by way of "explaining" his remarkable victory, but the simplest explanation is probably the most accurate: an opportunity existed (there was little that was *not* wrong with New York) and a fine candidate, against the "odds," had the courage to take advantage of it.

To be sure, Lindsay did get one break—the candidacy of the ineffable William Buckley. Not by inference but by his own statement, Buckley entered the campaign to defeat Lindsay; it is a measure of his general political immaturity that he succeeded in electing the man he sought to defeat. In a carefully styled campaign, Buckley managed to attract the white backlash vote, the hypped up "anti-Communist" vote, and the extremists of the far Right. By clever and precise semantics, he managed to appeal to racial and religious prejudices, while denying any such intention and without being directly chargeable with it. The words were well chosen but Governor George Wallace would not have been more effective. The effect, of course, was to attract the support of lower-middle-class elements, largely Catholic, who would normally have voted the Democratic ticket and who, in any other circumstances, would have found it very difficult to identify with the verbal gymnast from Stamford, Conn.

* * *

Nationally, Lindsay's victory offers a slight hope that the two-party system may still be salvageable. But before the opportunity can be defined, the realities must be restated. In the wake of the November, 1964, election, *The Nation* pointed out ["The Morning After," November 16] that the task of unifying the Republican Party would be far more difficult than most of the pundits realized. Today, a year later, the GOP is still sharply divided. The Goldwaterites were finally ousted from the national committee staff, after much bloodletting, but the splinter groups have multiplied. To date, Ray Bliss has failed to put a stop to the internal feuding. The Goldwaterites control the Republican Party in six Southern states, they are dominant in California, and control the Young Republicans and many subsidiary party organizations. Despite the belated repudiation of the Birch Society, right-wing elements are strongly entrenched in many local, state and peripheral organizations. Moreover, the Goldwaterites, as Buckley demonstrated, are wreckers and spoilers. They detest the liberal or moderate Republicans far more than they dislike Democrats. From the outset their strategy has been to wreck the Republican Party in the hope that they might then be able to pick up the pieces. To think that all they want is to secure a "bargaining" position in the Republican Party is to misread obvious realities. Lindsay's victory has not brushed these realities aside but has created an opportunity (it has also considerably improved Governor Nelson Rockefeller's chances of re-election) if the top GOP leadership only has the wit to see it.

For nearly half a century, the GOP has tended to ignore the big cities, in part because it did not need them to win elections at the turn of the century, in part because its traditional positions placed it at a

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disadvantage when appealing to the big-city vote. Also, the big-city machines were for the most part dominated by the Democrats, and behind this dominance was a long social history. So the GOP in more than one state turned a disadvantage into a policy. Deals were made with the city bosses: City Hall for the Democrats, Statehouse for the Republicans. All the while, important occupational and population shifts were taking place: the farm vote was declining, the small-town vote was declining, oldsters were shifting into the Democratic columns because of welfare, pensions, etc. These factors, combined with studied Republican neglect of the big city's problems and of big-city political organization, presented the big-city vote to the Democrats on a silver platter. The movement of white middle-class elements to the suburbs and the influx of Southern Negroes (and, in the case of New York, Puerto Ricans) to the cities simply underscored the trend.

As the appeal of the party to the city voter declined, Republican leaders were more and more inclined to write off the big-city vote as unobtainable and to base their strategy on an appeal to what the nuclear war strategists have long called Country B—that is, the country outside the big cities and the metropolitan areas or, in other words, the non-nuclear target U.S.A. As long as the Goldwater influence—the nostalgia for an older America—was not offset by candidates with a strong urban appeal and backed by real city organizations, this influence was bound to spread in the party, to its detriment nationally. The Country B strategy is hopeless because the votes are in the big cities, which are in the states with the big bags of electoral votes. Reapportionment will only strengthen this trend.

Big-city problems are certain to dominate the politics of the next two decades, if only because roughly two-thirds of the population now lives in the big metropolitan areas. At the same time the Democrats have, with rare exceptions, made a mess of big-city affairs. Big-city Democratic machines once served a purpose: they turned up jobs and handouts for immigrants and gave the urban poor a feeling of belonging, of identification. But the typical big-city Democratic machine cannot cope with today's big-city problems (again note an exception for Mayor Richard Lee, who was re-elected in New Haven, which has urban problems though it is not a really big city). The New York story—"The Shame of New York," as *The Nation* called it in 1959—eloquently supports this conclusion; New York is a shameful mess, and politically the Democratic machine is responsible. Here, then, is the Republican Party's opportunity: to move into the big cities, where the party must be strengthened in any case if it is to survive.

This opportunity has two additional facets. The Democratic city reform movement has largely faded—it began to fade under Kennedy and it has continued to fade under Johnson. It has lost out in New York and Philadelphia and it never had much strength in Boston or Chicago. The spectacle of Vice President Humphrey and Senator Kennedy striving to breathe some life into the Beame candidacy was a sorry one indeed. Then, too, Negroes, traditionally Republican in the first quarter of the century, became New Deal Democrats because of bread-and-butter issues: jobs, welfare, relief and, later, civil rights. Republican indifference drove them into the Democratic Party. But increasingly the racial issue — more accurately the issue of personal dignity, of human worth—has begun to take precedence over the so-called bread-and-butter issues. The returns in Cleveland, Dayton and a dozen other cities in Tuesday's elections support this conclusion. Mayor Sam Yorty of Los Angeles, a Democrat, would have great difficulty rustling up a baker's dozen of Negro votes today, and Mayor Richard Daley of Chicago is sitting on a keg of dynamite. In Boston, the grim-faced Mrs. Louise Day Hicks is a symbol of what can be done with lower-class and lower-middle-class "white" votes, in much the same way as Rosemary Gunning and Bill Buckley demonstrated how normally Democratic votes can be drawn from the party. The Republican opportunity, in a word, is its necessity. To be sure, Lindsay did not campaign as a Republican; but a man who had served four terms as a Republican Congressmen was certainly known as a Republican, and his campaign manager was Senator Javits. He was certainly not known as a Democrat, an Independent or a Liberal Party member.

* * *

Can Lindsay govern New York City? Is the city governable? The answer has always been obvious: the city is governable because it has always been governed after a fashion. The question is, *how*? For many years it has often been badly governed, as in the case of Mayor Wagner, by men of good will and personal honesty who yet lacked the imagination, the drive, the feeling for "modernity," for administrative skills and political inventiveness, to do the trick. No one can govern New York City who cannot enlist the support, the confidence and the cooperation of those who live in this envenomed city—and enlist them almost block by block, precinct by precinct. Lindsay's victory shows that a pronounced strain of American social idealism still survives in cynical New York but that, if it is to be mobilized, it must be by a candidate who radiates that idealism himself. Hacks cannot bring out the enthusiastic amateur idealists who, in the end, are the people who must govern New York if it is to be kept from self-destruction. To say that New York City is not governable is to say that democracy is a failure, that people cannot govern themselves. If New York cannot be governed, then the America of the second half of this century cannot be governed. Lindsay's victory is an indication that stronger than class, racial, religious or ethnic loyalties is public resentment stemming from a feeling that the entire environment has, through neglect and mismanagement, become malign.

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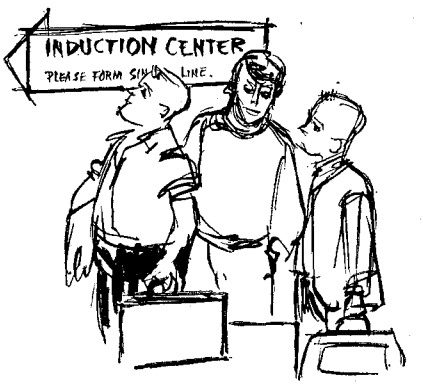
Obviously Lindsay has his work cut out for him. He stands alone. The deeply entrenched civil service will be against him. So will the other elected officials and the city council. But he has something working for him: he can use the press (he was actively supported by four of the city's newspapers) and the air media to tell the people what is wrong and what needs to be done. In this way, the city machine will begin to feel a pressure it has not known for many years. He should not give an inch. He should turn his aloneness to the people's advantage. He can tell them what to do. He can talk to them. Lindsay's victory is a miracle —they do happen in politics—but he cannot perform miracles. What he is able to do will depend on his ability to put the people to their tasks. He has qualities, as *The Nation* has pointed out before, of rare political leadership. We supported his candidacy and we wish him well.

CAREY MCWILLIAMS

How To End the Draft . . . . . Ross Wilhelm

One of today's best-kept secrets is that the draft is not needed. Economic analysis and past experience show clearly that if the military forces were to pay adequate salaries they could attract all the personnel they require—including manpower for the anticipated Vietnam build-up—without resorting to coercion. Secretary of Defense McNamara, in hearings before the United States Senate, admitted that the draft was unnecessary. Many United States Senators and Congressmen, among them Sen. George S. McGovern (D., S.D.) and Rep. Thomas B. Curtis (R., Mo), have acknowledged that there is a salary level at which the armed forces could operate on a voluntary basis. General Hershey, in response to a question by Rep. Robert Kastenmeier (D., Wis.) on television, supported this position. The real question is: "Why does the Johnson Administration refuse to change its budget and spending so as to eliminate the draft?" Is the Johnson Administration afraid to discuss the issue openly because that might lead to embarrassing Congressional questions about the undeclared war in Vietnam? Is the Administration reluctant to consider substituting money for the draft because the cost would be great and might jeopardize the reputations of Johnson and McNamara as "great economizers"?

The draft is an anachronism. The Universal Selective Service Act of 1939 was passed to meet the military manpower procurement problem and the mobilization problem of World War II. During the



period from World War I up to the onset of World War II, military expenditures were cut to the bone; by 1939 the regular military establishment had been reduced to 328,000 men, backed up by 410,000 National Guard and Reserve personnel. World War II required 10,600,000 persons, and the draft was designed to bring into the armed forces huge numbers in a minimum time. A similar procurement problem faced the nation at the outbreak of the Civil War when the Regular Army consisted of 107,000 men, and 4,057,000 were required to fight the war. This force also was mobilized by a draft.

Today, however, the problem is not one of expanding an army of a few hundred thousand to ten or more millions. We have a force in being of 2,600,000, and the announced intention of the Department of Defense is to increase this to slightly more than 2,900,000. Thus, the 1965 problem is how to maintain a force of between 2.5 and 3 million men, and the draft is an inappropriate instrument for the purpose.

At present, the armed forces are meeting the bulk of their manpower needs through voluntary enlistments. About 500,000 men a year have been required in recent years, and only some 100,000 of these have been draftees. Indeed, in some years the Defense Department has rejected, for physical or mental deficiencies, a larger number of volunteers than the number of individuals who have been drafted. Thus the military is very close to being able to operate without the draft, and the question at issue is the nature of the inducement needed to increase the flow of volunteers sufficiently to close the gap. The most direct form of inducement would be higher salaries for all military ranks.

The size of the pay increase required has been variously estimated. Secretary of Defense McNamara, testifying before a Senate hearing on the 1966 defense budget on February 26, 1965, said: "If the pay [of the military personnel] were raised to anything approximating a point where it would attract a sufficient number of men to do away with the draft, I suspect it would add about $4 billion a year to the military budget." He added: "Perhaps that should be considered"!

I estimate that all defense manpower needs could be satisfied with a flat across-the-board pay increase of $250 to $300 a month per man. This would bring the pay of trained enlisted men to a level competitive with civilian employment, and would make the starting pay for a recruit (now $87.90 a month) highly attractive to many young people. The total cost of my proposal would be more than $9 billion a year; however, the actual increase in the military budget would be significantly less. At present, only about 5 per cent of the draftees re-enlist for a second tour of duty, while about 20 per cent of the volunteers re-enlist and

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more than 90 per cent of the regular careerists. It costs $3,387 for the basic training of every man entering the armed forces, plus the costs of the additional training he receives beyond basic. Thus tremendous savings could be realized by reducing the turnover. But whether the cost of the increase were $9 billion or $4 billion, the point is that there is a pay level at which slave military labor would no longer be needed. It is distasteful that the richest nation on earth should use coercion to secure its military personnel when it could obtain all of the men it needs by paying adequate salaries.

The offensive nature of the military pay situation becomes clear when it is realized that the Congress recently cut taxes by about $10 billion a year, and the President has boasted that we can have both our "guns and butter." At the same time, a recent Air Force survey showed that 5,000 enlisted men on active duty in that service alone were receiving local relief payments to help support families, and another 55,000 enlisted men are eligible to receive other welfare benefits! The same shocking condition prevails in the other services. Even the Congress has begun to grow uneasy over the military pay situation. Rep. Thomas B. Curtis (R., Mo.) has called for a Congressional investigation and has been quoted as saying, "The Administration is deliberately avoiding a thoroughgoing review of our manpower procurement practices." In addition, Sen. Gaylord Nelson (D., Wis.), Sen. George S. McGovern (D., S.D.), and Rep. Robert Kastenmeier (D., Wis.) have been crying out for higher pay for the lower enlisted ranks.

From the viewpoint of society as a whole, the cost of eliminating the draft by raising pay would be significantly less than a $4 to $9 billion increase in the defense budget. The draft clearly causes vast economic waste in the economy. It does so most obviously by forcing many highly trained and competent individuals to spend two years performing duties that could be done by less well trained personnel. If the military were operated with volunteers, the social waste of assigning college graduates or individuals with comparable skills to jobs below their level of competence could be avoided. In

addition, the draft has encouraged large numbers of early marriages, with the attendant expectation of higher divorce or separation rates. Further, one does not have to be around a university long to learn that many students continue their education at the graduate or professional level merely to postpone the draft summons. Educational investments beyond those needed are an economic waste.

To continue itemizing the waste, many employers are reluctant to hire young men who are eligible to be drafted. Every employer makes an investment in a new employee in the form of on-the-job training as well as in the lowered productivity of the employee during his early months. On-the-job training runs in many cases for three to six months, and it is not difficult to find instances where it goes on for two years. Finally, the threat of the draft hanging over such young people frustrates their decisions and is a hidden waste impossible to measure. If the economic wastes associated with the draft were eliminated, the total cost to society of a military pay increase would be far less than the direct increases in the military budget.

The draft should also be done away with because it is highly discriminatory. Today only three out of ten men from the draft ages of 19 to 26 are serving. Many young men are exempted because they are in school or hold "key or essential" jobs. Others are physically, mentally or morally unqualified.

The net effect of draft exemptions on the basis of study or job is discrimination against the lower income groups. Admission to colleges and universities is directly related to income, and the bulk of those attending institutions of higher learning come from the upper income groups. The average income of the parents of students attending the University of Michigan, for instance—a state-supported institution—is more than $13,000 a year. Further, college and university students tend to remain in school longer than do those attending trade or technical schools, and this also tips the selection process of the draft toward the lower-income groups. It is probable, furthermore, that an individual in a key or essential job will have an income that is higher than average. Finally, the draft discriminates on the basis of sex, since women are exempt. Thus the claim that the draft results in "universal military service" is a

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myth that covers up the most flagrant inequity.

The great social dangers of the draft do not end with its injustices. In recent months there has been alarming evidence that it is being used to control thought and to squash criticism of our Vietnam policies. General Hershey has been quoted as prescribing the draft as a cure for juvenile delinquency as well as a means of handling demonstrators. In Michigan, a group of college students who sat down in a draft office as a means of protesting the Vietnam war were threatened with having their classification changed from 2S to 1A. All over the country state legislators are threatening to cut the budgets of state-supported institutions whose students have been protesting the draft or Vietnam. A democratic society is clearly in great danger when officials of the government have the power to punish or actually destroy those who oppose their policies.

On the other side, the most common defense put forth for the draft is that it is the patriotic duty of each citizen to serve his country. Without judging the validity of such a claim, it should be said that patriotism is no excuse for paying slave wages. And yet if the wages of the military were raised to where they were competitive with alternative employments, there would be no need for the draft. Indeed, it would not even be necessary to repeal the draft law: it simply would become inoperative. Further, it is obvious that large numbers of persons in the country do not accept the "patriotic duty" thesis, since it is necessary to force men to serve.

An alternative often proposed to the present draft law is a true universal military service wherein every young person upon reaching age 18 would have to serve in some capacity for two years. The most obvious objection to this proposal is that it is not an appropriate device for our present needs. In addition, the cost of universal military service, both direct and in the waste of training unneeded people, would be far higher than the bill for adequate military salaries.

During the 1964 Presidential election, both candidates promised to re-evaluate the draft and to eliminate it as soon as possible. Yet there has been no action on Selective Service to date except for steps to muzzle critics. Are the young people of the country paying for the political advantage of the Administration?

The Bourgeois Gentlemen of Saigon

Carl Oglesby

I call them bourgeois gentlemen by no means disrespectfully, but with concern for their exposure and with skepticism for a politics that may be as deeply French (remonstrative, reasonable) as it is romantic (elegant and doomed). There was something formal, even solemn, about our meeting with them. I sensed that we American visitors had been the subject of a difficult prior discussion: Was their risk, if we were "agents," greater or less than their opportunity if we were not? I felt that they had prepared for us, that they had arranged themselves.

Those who met us are apparently leading members of the group of some 150 that was arrested last February for calling upon Saigon and Hanoi to make peace. That evening we sat with a former Minister of Defense, a top Saigon lawyer who was a veteran of both the Vietminh (till '54) and Big Minh's Council of Notables, two professors, a publisher, a priest, a business statistician. Our host was formerly a Minister of the Economy, one whom a political opponent had characterized as "the most moral man in Saigon." He was also very well to do, had a fine house and lightly polished nails, wore gold cuff links and a silk tie. His table was laid with fine linen and silver; his servants offered around premium whiskey before a superb Vietnamese meal.

Such details are to the point: these men are from the north and the south; most are Catholic but some are Buddhist or Confucian (we would say "humanist"); but in common they are used to power, privilege and security, and perhaps now they are nearly beyond all three. They consciously identify themselves with those French nobles of the 18th century who sided with the Revolution in full awareness that their heads would be among the first to roll should the Revolution succeed.

Their view is simple and our host stated it at once. "The war must be ended at any cost." He was an eloquent man whose face seemed stretched with anguish. "Those who draw historical diagrams in guarded, air-conditioned mansions and speak of war's perhaps unfortunate necessity—these are men of no particular education." We were shown glossy photographs of the carnage that had educated our companions of the evening. "This is all one may say of war, nothing else."

They claim to fear communism. Its victory, they say, would be a personal defeat for each of them. "But our fear is not the people's fear. For them, communism means a change. For them, a change is already an improvement." The philosopher warmly extended that point. "Even with peace," he said, "the lives of the people are wretched. Even with peace, they may expect to live forty years. Nothing the Front could do to the people could make their lives worse. This would be true of the government, too, but it wants to do nothing. Now there are a few provinces where the government builds schools and hospitals, but there are no teachers, no doctors—only soldiers. The government builds these shells to prove it loves the people. Why not before, when it was not too late? Now the government is all for helping the people and everyone in Saigon is a Socialist. But there is of course the excuse of the war. Win the war in order to help the people. But the people can see: the government helps them only in order to win the war. For six years there was no war. The people got nothing from Diem but inferior promises quickly broken. Why was this per-

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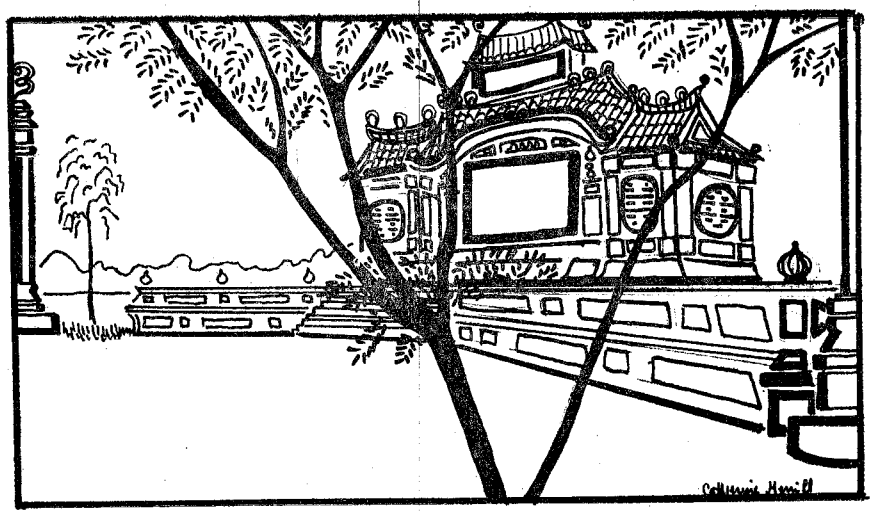
mitted? We had so much American money. We might have done so much. We bought guns and made an army. We wanted to frighten the people. Then they would not go with the Communists. Can you understand the size of this mistake?"

We wondered if this exaggerated the political sensitivities of "the people." The lawyer answered. "Only think of what you know. For thirty years, the peasant of Vietnam has been at war and seen foreign troops. First the French, then the Japanese, then the British, in the north the Kuomintang Chinese, the French again, and now the Americans are here. Any war, and especially this kind, is politically speaking a most educational experience. Reading, no. Arithmetic, not so much. But the politics of war, yes. From his childhood the peasant is trained in that. It is not like being an American farmer."

Our host argued that this was no longer relevant. The people wanted only peace. "If the people were allowed to choose between war and the Front, 70 per cent would choose the Front. At least."

But to us that seemed misleading. By the logic of his argument, the people would prefer *anything* to war — even, for example, the government. Given the choice between war and a peace under the government, would 70 per cent still prefer peace? The question seemed to divide them and they spoke among themselves in Vietnamese; it was as if they had descended from view for a moment. They surfaced, nodding. Our host said we would perhaps find the answer to that somewhat difficult, but he would try to explain why they now believed the answer was no, although there was a time when they would have said yes.



His explanation was substantially what we had heard a few nights before from an "underground" journalist of no apparent faction, the pseudonymous Cao Giao, who looks strikingly like Ho Chi Minh — younger by maybe twenty-five years, but with the same high features and long wispy chin whiskers and the same slight frame. He speaks quickly and with arresting precision. He has small, fine hands that fly continuously. At the least sign of an interruption, he stops mid-sentence, pulls his beard, and lays his head skeptically to one side: "Yes? Yes? You fail to understand?" He left the Vietminh after 1954, for two years was a leader of the Duy Dan southern socialist party, was then jailed for a while by Diem, but by 1959 was in Diem's service as a trainer of the guerrillas whom Diem was exporting into North Vietnam. He now edits an opposition paper whose name he must constantly change to evade the censor.

"The government," he said, "is a mere imposture. Who doubts it, who does not know? You Americans are fond of saying the Vietnam problem is complex. But this is only an excuse for not thinking. The problem is not complex, it is only difficult. Vietnam requires just two things, independence and development. But these cannot be separated. The government that does not satisfy the one will not be allowed to satisfy the other. A Saigon government that embraces the Americans could develop Vietnam but cannot make it independent. One that does not could make it independent, but cannot develop it. Do we struggle with this difficulty? Now we have only governments whose officials prepare at once for a forced retirement in Europe. The first act of a new head of state is to deposit large sums of American dollars in the banks of Paris. Do you think this is disguised? It is part of the office routine.

"I know the Communists very well. They will make us a drab people. They do not tolerate the bizarre, the lonely spirit. Hanoi is a gray city. But they promise independence *and* development, and they can easily deceive the people. This is why they grow. We do not give them the opportunity of exposing themselves as liars. We provide them with excuses for their failures, we justify the tyranny they would impose in any case, and we hand them an explanation for their attachment to the Chinese.

"Here are realities. First. The Vietcong are winning the war because they are winning the people. This is disgraceful for us and tragic for Vietnam. Why does it happen? They started small and grew large. We started large and grew small. This happened because we had nothing to say to the people. Now the people are asked to fight with us for what this Ky has the impudence to call 'freedom.' Nonsense. What freedom did we ever show them? What freedom do they want whose ancestors, like themselves, died from hunger and sickness even when there was peace? We must stop defending this 'freedom' which does not exist and rise instead to attack the VC as traitors to the nationalist revolution. Then maybe the people would come with us.

"Second. A permanent solution for Vietnam cannot be seen through cold-war eyes. We do not want to be swallowed by China. But we cannot stand like sentries on America's side. That is to betray Asia and thus ourselves. You must learn this. If you force us to be with you, you are really forcing us to be with China. For us to be with you, in your way, you must simply invade us and conquer us. We are not insane. We know our country must exist not only today, but one hundred years from today. And therefore, five.

"Third. The Vietnamese detest foreign meddlers. Worse yet in

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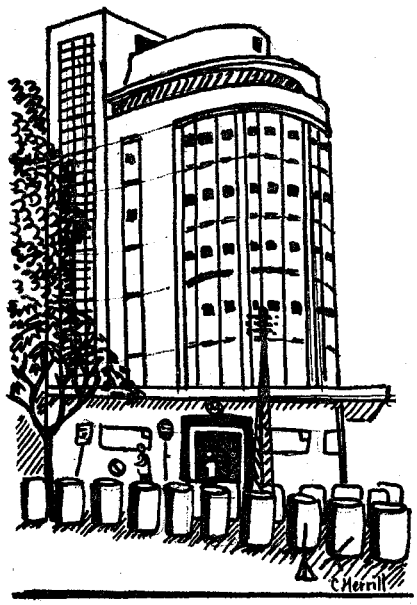
their eyes are the Vietnamese who collaborate with foreign meddlers. This was true when the French were here. It remains true now that Americans are here, no matter how different America's reasons may be. For the Vietnamese who speaks only his own tongue, it is very hard to tell the difference between the Frenchman and the American. Both are very tall."

Did this mean he wanted a U.S. withdrawal? "Militarily, no. Things are very bad now. But politically, yes. Or things will only get worse." But what could that mean? How



United States Embassy, Saigon

could these be divided? Cao Giao was not so clear. His lucidity for a moment flickered badly. Perhaps an international bank for aid, an international army for defense. But then he flared. "This is your problem because you have made it your problem. We Vietnamese did not make these decisions. The Vietnamese did not divide Vietnam. But for your own sake, if you understand nothing else, you must understand this, the fourth reality: *Any Vietnamese solution to the problem of Vietnam is better than any non-Vietnamese solution.* Grasp this and begin. Ignore it and be beaten."

The Bourgeois Gentlemen's peace plan rests on two assumptions. First, both the government and the Front prefer outright military victory. But since neither side is strong enough to win or weak enough to lose, continued pursuit of victory has become absurd and can result only in the destruction of Vietnam. Second, Vietnam, "a small country cowering on the frontier of the cold war," can survive only if it attains "equilibrium" vis-à-vis the two contending giants. The main features of the plan are as follows:

1. A month-long cease-fire agreement is signed by the two armies, the central political purpose being to test the good faith of each side. If the cease-fire should fail, then Vietnam had no chance in any case. The agreement would not demand the departure of northern NLF troops or the withdrawal of U.S. men and equipment, but it would ban arms shipments and troop movements on both sides.

2. The cease-fire freeze is guaranteed by the signatures of the generals who are actually directing the war, not by politicians. Thus it involves no political recognition — a subtle but important point. It means that the Front is encountered directly by Saigon, not through Hanoi, and that the Front is therefore granted the right to speak for itself. At the same time, there is no implication that Saigon legitimizes through "recognition" the Front's claim to a certain political status. That is, the cease-fire is made by the combatants, and it is incidental that this or that combatant may also be a member of the Front. The force of the agreement, of course, resides precisely in the fact that he *is* of the Front, that he *does* speak for it to Saigon, that Saigon hears (though its face is averted), and that everybody knows this.

3. The cease-fire is controlled during the one-month test period by a mixed commission of government and Front officers. The politics of this continues the thrust of point two—to be generous in realities where one is close-fisted in symbols.

4. The inevitable peace conference follows by a month the making of the cease-fire, which will be continued under the supervision of a strong International Control Commission. This conference must agree to the rapid formation of a strictly provisional and custodial government for the south. It will be made up of delegates from Hanoi and Saigon, who provide for the interests of the Front and the United States. The main business of this government and the ICC is to plan for and oversee general elections. The provisional government must hold these elections within four or five months of its formation. Sooner is too soon; later is too late.

5. The first election chooses a National Assembly, either directly or through an electoral college. The assembly's first job is to draft a constitution that among other things stipulates a method for electing a president. A presidential election is then held and the government is established.

6. Saigon should even now be forming "worthy cadres" who will go to work with the people at the onset of the settlement period. These cadres must be prepared with an ideology that transcends Vietnam's Buddhist-Catholic, rural-urban, and traditionalist-modernist splits. Their program must be basically Socialist, but it must be detailed by the people themselves, who alone are authoritative on popular needs.

7. It is unrealistic to expect and unwise to demand that America disappear overnight. Its interest in Vietnamese neutrality — independence of China — will show it the prudence of supporting a Socialist economic program first in the south and then, after reunification ("someday"), throughout Vietnam. And since no state can demand moral heroism of another, the Vietnamese must not trifle with America's insecurity. They must allow a provisional American military presence. Thus, Danang will remain a U.S. base—a strategic position, but one from which there will be minimal interference in Vietnam's internal affairs.

What is claimed for this plan is that it removes the two outstanding present obstacles to negotiations: if the United States can go so far to accept the Front, the Front can accept an American interest. If the United States can cooperate with genuine social change aimed only at improving the quality of Vietnamese life, then the Front can acknowledge a provisional United States military presence.

Who knows if others will see such virtues in the plan? Who knows if others will even hear of it? Shortly after these interviews, Nguyen Cao Ky proclaimed "neutralism" a capital crime against the state. Was this only bluster? Or

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have the Bourgeois Gentlemen been silenced? And if that has occurred, it poses the toughest question of all:

If Ky has now chosen to seal their fate, has he not thereby moved toward sealing his own? And that of any following lackey Saigon regime? Not only from the Bourgeois Gentlemen but from almost everyone we talked with in Saigon and Hue, we got the following impression: The Front has never represented a truly desirable solution for Vietnam. But neither has the government. In November of 1963, there was a moment of hope. But as coup upon coup condemned that hope, the wait-and-see loyalism of the anti-Communist middle and upper classes was forced to become a curiously apolitical neutralism which allowed one to speak only of peace. But coup still followed coup, each violent and peremptory change bringing with it a deeper reach of exasperated Americans into the structure of the southern government. For patriotic and proud Vietnamese, Ky is thus a national humiliation. The move has been from loyalism to neutralism, from Saigon to sitting on the fence that surrounds Saigon and divides that political ghetto from the rest of the country. Now that fence grows razor sharp, like bamboo spikes. What happens to the ex-loyalist neutralists when fence-sitting grows intolerable? As James Reston of *The New York Times* has at least been moved to wonder, will we win the war and lose the people? And what in the world could such a victory mean?

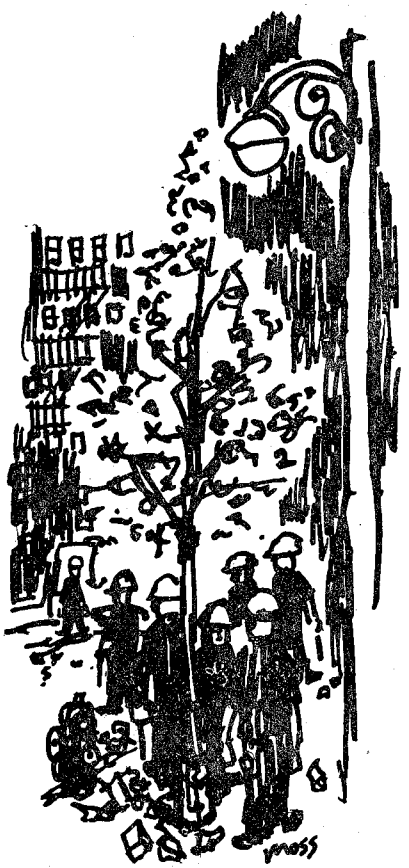
AFTERMATH TO HARLEM RIOT

The Epton Anarchy Trial . . . . . Frank J. Donner

A prosecution under criminal anarchy and riot statutes now pending in the New York State Supreme Court against William Epton, for inciting the 1964 Harlem-Bedford-Stuyvesant riot, gives legal form to a theory of individual responsibility for racial outbreaks in Northern cities. Epton is the Harlem-based leader of a super-militant, pro-Peking splinter group, the Progressive Labor Party.

The Watts riots of this year and the seven riots of the summer of 1964 have produced a gusher of explanations for civil violence. They range from environmental reasons (chronic unemployment, lack of education) through psychological (status deprivation) to personal (mass crime in the streets, subversion, conspiracy). Observers in the center and on the left of the political spectrum blame society and social discontent for the outbreaks. Those on the right (both near and extreme), along with municipal authorities, the police and their apologists, absolve the society, praise local race relations and point the finger at individual culprits, desperate and evil men who prey on their own people, or overzealous civil rights activists who, it is claimed, inflame to the point of violence a situation which they themselves created.

Since all of last year's riots, as well as the Watts affair, were triggered by incidents involving the police, police brutality can hardly be ignored as at least a proximate cause of such outbreaks. But the police and their apologists trot out the same convenient scapegoat: subversion and conspiracy. The total misery of the Negro is discounted as a reason for the violence; individual plotters are blamed, and charges against the police treated not as legitimate grievances but as further proof of the criminal or subversive origin of the riot.



The best exposition of this thesis was offered by Mayor Yorty of Los Angeles in his explanation of the Watts riots:

> *No problems existing here or allegations of police brutality can excuse the attacks of criminal elements upon the people of this city.*
>
> *Criminal elements have seized upon the false charge to try to excuse their lawlessness. It's the "big lie" technique. The cry of police brutality has been shouted in cities all over the world by Communists, dupes and the demagogues.*
>
> *Certainly Negroes in the South have been deprived of their rights and deprived of justice, but this provides no excuse for the criminal elements who terrorize their own people and indiscriminately and wantonly attack the citizens of our city.*

The now almost forgotten 1964 riots in New York were no small rent in the fabric of public order. Violence broke out in Harlem on the night of July 18 in the aftermath of a demonstration against the slaying of a 15-year-old Negro boy, James Powell, by Police Lt. Thomas Gilligan. Thousands of Negroes raced through the center of Harlem, attacking white persons, pulling fire alarms, overturning cars and looting stores. Rioting on a reduced scale continued for five days thereafter, and on the third night it

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spread to Brooklyn's Bedford-Stuyvesant section—again, after a demonstration against "killer cops." The outbreak resulted in the death of a Negro by shooting, injuries to more than 100 persons (including thirty-five policemen), 185 arrests and several million dollars' worth of property damage.

The riot quickly brought Mayor Wagner home from a sojourn in Europe, with promises to investigate police brutality, give sympathetic consideration to demands for a police civilian review board and, as a token of his good intentions, a summons to Martin Luther King, Jr., to parley with the embittered Negroes of New York about their demands for a curb on the police.

No action was taken at the time of the riots—or since then—to meet the grievances of New York's Negroes (complaints of police brutality are more numerous now than ever before). The action that did occur was the empaneling of a grand jury on August 3, 1964, to ascertain if there was criminal responsibility for the riot. The grand jurors—all of them quite affluent members of the white power structure—turned out to be enthusiastic believers in Yortyism. Two days after the grand jury was convened, it indicted Epton for criminal anarchy.

The indictment, though speedy, was not exactly a bolt from the blue. The Progressive Laborites had been denouncing the Harlem police for a long time prior to the riots and had been involved in a number of confrontations on the issue of police conduct in the Harlem ghetto. Indeed, ex-Police Commissioner Murphy, at the time of his resignation last May, bitterly complained to his intimates that he had gone undefended when he was given the racial tag "Bull Murphy" by the Epton-led group, which had sought to gain political support by exploiting the widespread ghetto bitterness over the conduct of the police.

However, the August 5 indictment did not mention that Epton and his group had made police racism a primary target. It alleged simply that, shortly before the riot began, Epton—in a twenty-minute speech (recorded by a red-squad agent in the audience) at a rally protesting the Powell killing—had advocated criminal anarchy: the violent overthrow of the "organized government" of the state of New York by killing its officials, especially its police. What Epton actually said is in doubt, because the tape is blurred at that point, but even if he urged an assault on the police, the law would find him guilty of a misdemeanor, not of a political crime. However, the thrust of the indictment is that the speech was a revolutionary incitement to anarchy which took the form of a harangue against the police. But the indictment did not specifically link the speech to the riot and was conceived of as a holding action pending a more comprehensive charge by the grand jury causally relating Epton's revolutionary politics, his "criminal anarchy" speech and the riot.

After a ten-month investigation (to which I shall return) the grand jury handed down a superseding indictment on June 6 of this year which refashions the case against Epton and makes his anti-Gilligan speech a detail in a vast subversive enterprise. It charges Epton individually with the advocacy not only of criminal anarchy ("the duty, necessity and propriety of overthrowing and overturning the organized government of the state of New York by assassination of the executive officials of the government and by force and violence") but of riot as well. But that isn't all. The advocacy of criminal anarchy and the Harlem rioting are each alleged to be the fruit of two connecting conspiracies, a large political conspiracy to advocate violent overthrow and a smaller one to riot.

Both conspiracies were allegedly furthered by six unindicted co-conspirators, five of whom (like Epton) are Negroes and involved with him in the Harlem Defense Council, an offshoot of the Progressive Labor Party. The sixth is a printer whose complicity rests on the fact that he reproduced a poster, widely circulated by the Progressive Laborites, describing Gilligan as "Wanted For Murder." This new legal howitzer threatens Epton with a jail term of seventeen years and $17,000 in fines.

The indictment is a forest of ideology and leaflets, with nary a sprig of action or preparation for action. No claim is made that either the defendant or his helpers committed even a simple behavioral offense against persons or property such as disorderly conduct, breach of the peace, assault or resisting arrest. At one point the indictment tantalizes us with the charge that the defendant discussed the use of, and the preparation of such a pamphlet, "Molotov cocktails." But for all we know the defendant may have been opposed to their use and vetoed the preparation of such a pamphlet, since none of the pamphlets and leaflets referred to in the indictment relates to Molotov cocktails.

The profligate use of the conspiracy device (not one, but two conspiracies charged against a solitary defendant) was designed to make possible a conviction based on highly remote and hearsay evidence—evidence not of plotting or participating in a riot but of engaging in highly unpopular politics. Both the individual and the conspiracy counts of the indictment raise grave questions of free speech, press and assembly. Most of the overt acts set forth in support of the conspiracy counts, as well as the individual substantive charges against Epton, involve only verbal attacks on the police. The disturbing premise of the entire indictment is that such attacks are steps in a criminal enterprise.

The defendant and his associates are alleged, primarily through their anti-police agitation, to have instigated a multimillion-dollar caper and caused a death and scores of injuries. This is Yortyism with a vengeance!

The zeal of the grand jury to find a scapegoat for the riots outran the available resources of the New York penal law. The criminal anarchy statute, last used forty-five years ago against Benjamin Gitlow, was passed in 1902 in specific response to the justification by the anarchist Johann Most of the assassination of President McKinley. It was aimed at violent anarchy and not at the Marxism which Epton's party espouses. And the crime of riot, a collective offense for which liability may be imposed vicariously, has fallen into disfavor because it violates the principle that guilt is personal. (Conspiracy also imposes vicarious liability, and the indictment charges the crime of conspiracy to riot, a double form of vicarious liability, long ago judicially disowned in New York State as a legal monstrosity.) The almost archaic portion of the riot statute dealing with incitement to mob defiance of constituted authorities, which was invoked by the indictment against

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Epton individually, has given way under the pressures of a changing political order to individual crimes such as resisting arrest and disorderly conduct.

It hardly requires acute analysis to recognize that reprisal played a role in the indictment. The law which Epton and his associates really violated is an unwritten one: Criticism of the police involves the risk of a charge of law violation. The law, after all, is the personal ambience of the policeman, and his community of interest with the prosecutive authorities stands him in good stead when his own lawlessness is under scrutiny. (The use of the law as a shield for guilt is seen most often in the charge of resisting arrest brought against the victims of police brutality.)

In none of the riots, last year and this, has the need for police vindication been as urgent as in New York in the summer of 1964. Not only did the Gilligan tragedy explode the riots, but a long train of police abuses against minorities had made a police civilian review board the prime demand of civil rights groups. The Epton indictment conveniently confirms the thesis of the New York police that movements by civil rights groups to check and discipline its behavior are a smoke screen for revolution or extremism. The conservative William Buckley, Jr., was wildly applauded when, in a speech this summer before a police audience of 6,000 members of the Holy Name Society, he dropped some consoling words about the Alabama State Troopers and concluded: "Men who rail unthinking at the police . . . tend to have a relationship with the revolutionaries." Only a short time later, Robert Moses in a speech before the St. George's Guild also linked demands for police reform to leftism.

In April of this year, ex-Commissioner Murphy emphatically rejected a mild compromise plan for a Civilian Review Board proposed by the Committee on Civil Rights of the New York County Lawyers Association. He explained that criticism of the Police Department was confined "to a small and vocal segment of the community." The Epton indictment, handed down after Murphy's resignation, was offered to the community as his vindication.

The mood of the police and its red squad for reprisal was revealed in the ten-month grand jury investigation which was used to destroy the Progressive Labor group without the formality of a trial.

From August, 1964, to June of this year about forty witnesses were summoned before the grand jury, most of them members of the Progressive Labor organization. The investigation relied heavily on informers and surveillance. The key witness to the alleged conspiracy is a police agent and provocateur planted in the ranks of the group. The red-squad head, Fritz Behr, was also apparently working undercover among the Progressive Laborites. Mail was opened, telephones tapped and dwellings bugged with wireless microphones. Homes of the group's functionaries were ransacked without warrant; FBI and red-squad agents tailed members of the group and tried to "break" them through hostile interrogation. Printers were discouraged from working on Progressive Labor publications; the partners of one printing firm were forced to surrender their business records to the grand jury and subjected to a grilling about their finances. One member of the group who lives in South Carolina was held in New York as a material witness. Lawyers for witnesses before the grand jury were smeared and intimidated.

The dawn or early morning service of subpoenas by red-squad agents was a routine abuse. One special police agent broke into the home of a young woman living by herself at 6:30 A.M. Subpoenas were also commonly served at the witness' place of work; a number of Progressive Labor Party members lost their jobs as a result. One witness, William McAdoo, was served four times at his place of work until he finally lost his job. McAdoo was served by seven plain-clothes men on one occasion; he was summoned before the grand jury six times in all. The police read his mail and riffled through his books, knocking over his 2-year-old daughter in the process. When the witnesses came to the grand jury room they were already thoroughly demoralized and in some cases terror stricken. The questioning frequently assumed a ranting and hectoring quality.

Witnesses were systematically questioned about the political affiliations of themselves and their associates, the obvious purpose being to compile dossiers on the Progressive Labor membership. For example, the first count of one contempt information is the refusal to answer the question, "Are you a member of the Progressive Labor Movement?" The second count is based on a refusal to identify the four employees of the witness' corporation. The third count is based on refusal to answer the question: "Who else do you know at the Harlem Defense Council?" The hunt for names was so pervasive that two members of the organization were served with subpoenas on a picket line by red-squad chief Fritz Behr, who recognized them as members from his prior undercover activities.

The refusal to answer questions seeking the identification of individuals resulted in contempt citations because the witnesses were invariably granted immunity and thus could not plead the privilege against

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self-incrimination. The plea of the First Amendment was routinely ignored.

The grand jury became a high-production contempt factory. Of the forty witnesses called, some seventeen were cited for contempt; a number of them have already served contempt sentences. Four of the witnesses are young women, three of them students of CCNY. One of them, Eleanor Goldstein, was sentenced to two thirty-day jail terms —the second time to the oppressive Women's House of Detention (the judge explained that he was sending her there deliberately). Miss Goldstein was convicted of contempt for refusing to answer precisely the question for which she had originally served a contempt sentence. A number of other witnesses who served contempt sentences were warned that they might be recalled and again asked the same question. And the worst is not over: the grand jury's term has been extended, for the fourth time, to the end of this year.

The district attorney can proceed in a contempt case under the judiciary law which provides for a punishment of thirty days in jail and $250 fine or under the penal law which permits sentences of up to a year in jail and fines of $500. In every case but four the district attorney in this situation took the more punitive course, despite the fact that contempts are frequently brought under the more lenient statute.

And when the harsh penal law approach was used, the district at-

(*Continued on page 372*)

Smut Hunters

THE NEW JURISPRUDERY . . . .

Howard Junker

The days of book burning, alas, may be over. The new smut hunters, having learned that nothing incites the liberal, literate backlash like vigilante techniques, are now vigorously working by the side of the law. Moreover, Citizens for Decent Literature, Inc., the foremost independent (though predominately Roman Catholic) group of anti-dirty bookmen, insists that it deplores fanaticism and opposes censorship.

"Wild-eyed crusaders," warns CDL's Procedures Handbook, "fanatics, and zealots can destroy our public image, and do great harm to our cause. We are responsible citizens. . . ."

CDL does want to alert the public to the problem, but it also wants to stimulate the authorities to do their job, which is to arrest, prosecute and convict. CDL wants to muster nonflagrant support for the law. "We would have a resurgence of book burning," says CDL's Director of Public Relations, Thomas Blee, "the citizenry would be revulsed and bluenose groups would rise again, if there were no organizations like CDL fighting pornography."

Shortly after this not too preposterous statement, made to me at the fourth biannual CDL convention held October 22-23 at the Waldorf-Astoria in New York, Blee showed me a small sampling of smut CDL had assembled and was keeping under padlock in a room adjoining CDL's press room. First, Blee demonstrated a nudist magazine, carefully leafing through the pages so that I could get a good look at the problem we're up against. Then Blee went through two cardboard boxes full of paperbacks, pointing out the somewhat old-fashioned (by today's standards) promiscuity titles as well as the more hip Lesbian, homosexual, fetishistic and so on kind of books. Included in the collection was the 1964 yearbook, *Keyhole,* from the Ben Davis High School, which contained a snapshot of a group of boys reading *Playboy* with obvious pleasure. And there was one paperbook, *Youth Against Obscenity,* which bore this blurb on the cover:

> *In the crowded auditorium they preached and screamed about obscenity in magazines, but on secluded beaches and private bedrooms they enjoyed their sex in about every imaginable way. . . .*

As we left the *camera segreta* to return to the convention proper, Blee said to an associate: "Keep your eye on the room." And as we walked to the elevator, Blee explained that it is essential to screen people who want to join CDL. Preferably, "they should be at least 25, with a family and with church affiliations. People who can handle such material over an extended period without being adversely affected."

Blee, who is amazed at the filth in *Playboy* whenever he reads it, which is regularly, is no prude. He is a 35-year-old adman in Fort Wayne, the father of four, clean-cut and forthright. Nor is Charles H. Keating, Jr., a Cincinnati lawyer who founded CDL in 1956, conspicuously strait-laced. Keating has been a fighter pilot—"with a flip of the switch I could trigger death from six 50's in the wing" —has a handsome wife and six children, including two high-school daughters who dined at The Four Seasons on the Friday night of the convention. While talking with me ("I'm too busy with other things to tilt lances with anyone") he said "crap" once and once referred to a bevy of CDL-letter-writing girls as "quail." Blee, Keating and the rest of CDL resent the implication that they regard the examination of pornography as anything other than a painful duty. Such an implication, said Keating, appeared in *The Nation's* story of July 5 ("The Anonymous Smut Hunters," by Norman Mark) which quoted a national magazine publisher's observation of the audience at a CDL film: "hundreds of little old ladies in gym shoes have gotten their first sexual kicks in years from this film." In no uncertain, though unprintable, terms, Keating and other CDLers assured me that they derived no personal gratification from viewing *Pages of Death.*

At the convention I saw *Printed Poison,* which cost about $45,000 to produce and contains a lengthy, though rapid, montage of lurid material, with black masks on the faces and genitals—for the protection of the performers, claimed one CDLer, explaining that models, especially nudists, do not always know what they are posing for.

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Printed Poison chronicles the triumph of a good citizen who is not "afraid of treading on the golden calf of free speech," and who is sufficiently aroused by the menace of pornography to go to the police. A supine officer tells him, "I can't help you, my hands are tied. You get the D.A. to prosecute, then we can make an arrest." The D.A. is not moved either, but one of his assistants is. So carefully plotted, prepared and procedurely correct action is begun, culminating in arrest, prosecution and conviction. And the moral: "none of this would have been possible if *you* hadn't taken the first step."

That is the basic premise of CDL: prosecutors would prosecute, judges would convict, if they felt the public were behind them. Meanwhile, our youth are being corrupted—about 70 per cent of all porno, says CDL, finds its way to the hands of youth. Crimes definitely caused by porno are being committed. Most of the nineteen great civilizations the world has known have crumbled not under attack from without but from moral dry rot within. The fight, then, is patriotic. It is also, of course, moral and in the interest of human dignity, for God, for America, for mother, sister and daughter. Moreover, the laws are on the books.

The bastion of decency is the Supreme Court's ruling in *Roth* (1957). *Roth* said that obscenity is not protected by the First Amendment (freedom of speech) because it is "utterly without redeeming social importance." The test of obscenity, wrote Justice Brennan, is "whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to the prurient interests."

Though CDL would like to see the "redeeming social importance" loophole plugged, and retired Navy chaplain and California State Assemblyman E. Richard Barnes, who addressed the convention, has unsuccessfully tried to push through legislation to that effect, and although CDL feels that "community standards" are to be construed by the individual smut patrol, CDL is investing its greatest energy at present in an attempt to extend the power of obscenity laws by requiring jury trials in all cases.

At present in New York, for example, as King's County Assistant District Attorney Joseph Meglio explained to me at the convention, selling obscenity is a misdemeanor, liable to trial only before a judge, who is usually "pseudo-sophisticated." (In other states, defendants in obscenity cases simply waive their right to trial by jury.) As *Reader's Digest* staffer O. K. Armstrong, who addressed the convention, wrote in the September *Digest*:

> *The criminal court, with jury, is the forum that assures the greatest chance of success, for the 12-person jury, drawn from the local community, can best assess offending materials on the basis of known "community standards."*

A number of CDL delegates managed to widen their horizons at some point during the weekend by touring 42nd Street. And on Friday night, in a slot in the program titled, "The Way to Victory: A Panel Audience Discussion" — which I walked out of a moment too soon — a great debate broke out between the tourists and the townies over local effort to clean up the filth. According to the Rev. Morton A. Hill, S.J., head of Operation Yorkville, a New York City anti-obscenity group—none of the visitors I asked would tell me the story —the locals were accused of being lax in their efforts to arrest, prosecute and convict. What Cincinnati fails to understand, said Father Hill, is the "liberal climate" in New York. As Father Hill sees it, the forces for pornography, spearheaded by the American Civil Liberties Union, vastly outclass the forces for good. And though Father Hill admits that he is not as concerned with 42nd Street as he is with rooting porno "from the candy store and the corner store where our kids are going in and out," he feels that President Keating and the others underestimate the ACLU and overestimate the power of private citizens. In short, the educational and public relations battle must be won, before the legal one is begun.

As a parting shot, Father Hill told me of being blackballed at an ACLU-organized, Board of Education-sponsored course on the Bill of Rights, offered to city teachers for credit. Father Hill claimed that "the champion of freedom of expression," the ACLU, had refused to allow dissent in its course.

Aryeh Neier, executive director of the New York Civil Liberties Union, tells the story a little dif-

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ferently. Father Hill was granted permission to attend an occasional class in the course, which was not open to the public, on the condition that he remain silent. But Father Hill arrived in the middle of one class, which was not the first session, did interrupt, did begin a discussion and left when he had finished his statement.

It is easy to understand why smut hunters regard the ACLU as satanic. The ACLU maintains that in order "to guard against the stifling effect of censorship no ban should be placed on allegedly obscene material, even though much material may be intensely disliked by many persons." At worst, the ACLU concedes, only material that constitutes "clear and present danger" of criminal behavior should be banned.

Though CDL cites common sense, the occasional discovery of a cache of smut in a rapist's closet, and the authority of J. Edgar Hoover ("We know that an overwhelmingly large number of sex crimes is associated with pornography"), the actual linking of reading habits and criminal behavior has so far eluded the efforts of science.

CDL insists that it is against censorship. It publishes no list of forbidden books, although it does offer a list of materials judged obscene in federal and state courts. It does not participate in or encourage boycotts, which, in any case, have been declared illegal in various "no prior restraint" court decisions. CDL does, however, advocate the one-man boycott, individual pressure on a store or newsstand in the form of polite comment to the owner that whereas in general his merchandise is of high caliber, some of his books and magazines are disgraceful. This, too, is the line taken in CDL letter-writing campaigns, which in Cincinnati apparently have posted "tens of thousands of letters." CDL letter writers are urged to be polite and complimentary, "never to mention a religious or group affiliation," to mail by first-class registered—these letters "are usually given personal attention"—and to follow up successful action with congratulations.

(Youth CDL, which appeared 200-strong at the convention, with forty Cincinnati high school students presenting skits they had rehearsed in the bus on the way up, devotes much of its time to stuffing envelopes and assembling printed matter for Adult CDL. Youth CDL also writes, telephones and give speeches on its own.)

The sincerity of CDL's noncensorship piety is further compromised by the ease with which its warriors drop gutter fighting to take out after quasi, finally genuine, literary figures. Mention of Ralph Ginsburg, whose case has reached the Supreme Court, stirred the delegates to titter as if they knew a dirty man when they heard his name. ("We've got to be in on this case [with an *amicus curiae* brief]" Keating told me, "because what happens here will be used as a blanket everywhere else.") That Maurice Girodias of the Olympia Press should come to the United States when France, "known for its sex-mindedness," would not have him, was interpreted for the convention as a sure sign of our moral decay. Hugh Hefner, who two years ago lashed out at CDL in "The Playboy Philosophy," was called "our most infamous pornographer" by the Rev. Francis X. Lawlor of Santa Rita High School in Chicago and spiritual leader for the Illinois Knights of Columbus Moral Decency campaign. Father Lawlor also told the convention that he didn't think our country's librarians knew they had been "betrayed and misrepresented" by the Intellectual Freedom Committee of the American Library Association, which had filed an *amicus curiae* brief before the Supreme Court in defense of *Tropic of Cancer*. *Tropic* was digested for the convention by O. K. Armstrong as "a young man's adventures with numerous prostitutes in Paris."

The single grain of wit among the chaff was Cleveland Amory. Hailed as a courageous man for daring to go against the Eastern Literary Establishment, Amory warned the convention "not to lose your sense of balance," and suggested that the best weapon against smut was ridicule. Amory read several passages from dirty books; the audience was not amused.

The Knights of Columbus, whom Keating joined two days before the convention, have contributed $15,000 to CDL and have persuaded the National Fraternal Council, ninety-eight societies with 10 million members, to launch an anti-pornography campaign. *Reader's Digest* has kicked in $2,000, *Newsweek* $100. And the convention itself was addressed by a Houston rabbi, a Baptist senior deacon, the Knights' Supreme Knight, a Pennsylvania Supreme Court justice, a California Assemblyman, the New York City Schools Superintendent, plus doctors, lawyers, Father Lawlor, Fulton Oursler, Jr., and Cleveland Amory. Except for Amory, these men spoke at length, with great fervor and the rhetoric of self-appointed virtue. The hot air alone was enough to turn me against CDL.

And there is something more. It is that "any time you try to sell a cause to the public," as Keating confessed to me, "you attract all sorts of people you'd rather not have anywhere near you." Such as book burners, censors, zealots and prudes. Such as the people who might put CDL's "Stamp Out Smut" bumper stickers next to "Support Your Local Police." Such as the *Digest* writer for whom *Tropic of Cancer* is an odyssey-*cum*-prostitutes. Such as the California Assemblyman who wanted to remove the *Dictionary of American Slang* from high school libraries. Such as the Supreme Knight who considers pornography "as potentially pernicious as bombs from Peking, rockets from Moscow, or missiles from Havana." Such as James J. Clancy, CDL legal counsel and sole paid staffer, who seemed reluctant to admit to me that he received $20,000 a year, but who did not shrink from urging the recall of New York's Judge J. Irwin Shapiro, who ruled in 1963 that "novels and stories of no literary merit have a place in our society. There are those who, because of lack of education, the meanness of their social existence, or mental insufficiency, cannot cope with anything better."

Perhaps a more sophisticated attitude toward obscenity would have to follow George Steiner's argument against High Pornography in the October *Encounter*. Besides the "inescapable monotony" of the new erotica, Steiner resents its invasion of our privacy, its usurpation of our imaginings. In fine, says Steiner, "these books leave a man less free, less himself than they found him; they leave the language poorer, less endowed with a capacity for fresh discrimination and excitement."

In any case, the defense of freedom of speech as an absolute never seemed as necessary to me, as when I listened to CDL proclaiming that for every freedom there is corresponding responsibility.

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'I Come From Julius'

INVITATION TO AN INQUEST. By Walter and Miriam Schneir. Doubleday & Company. 480 pp. $5.95.

Fred J. Cook

On June 19, 1953, Ethel and Julius Rosenberg were sent to the electric chair in Sing Sing as "atom-bomb spies," though doubts and suspicions of a miscarriage of justice troubled many. By some of the best detective work in modern journalism, Walter and Mirian Schneir advance these doubts to a point of proof which cannot be ignored. They have produced a book which is also a vital social document, one that should be not just an "Invitation to an Inquest" in the Rosenberg case, but into the whole witch-hunt era, and, most importantly, into the role played by J. Edgar Hoover and his virtually sacrosanct Bureau of Investigation in this and other celebrated cases of that era.

To understand the significance of what the Schneirs have done, it is necessary to sketch the bare bones of the Rosenberg tragedy. Julius and Ethel Rosenberg went to the electric chair on the judicial premise that they had committed "the crime of the century" and "a crime worse than murder" by transmitting atom-bomb secrets to Russia. Morton Sobell, who was convicted with them on the most tenuous evidence, still remains in prison. The Rosenberg-Sobell case, as it has come to be called, developed out of the confession that Klaus Fuchs made to English authorities. Fuchs, who had worked on the atom-bomb project, recalled that he had funneled information to the Russians through a courier whose identity he did not know and whom he could describe only vaguely.

With only this to go on, J. Edgar Hoover and the FBI determined to their own satisfaction that Fuchs's courier had been Harry Gold, a Philadelphia chemist, originally mentioned in Elizabeth Bentley's tales of espionage. With Gold in hand, the FBI developed its own bigger and better atom spy case. As polished and refurbished and ultimately produced in court under the guidance of the Right-gaited tandem of Irving Saypol and Roy Cohn, it went like this:

Gold testified that he had gone to Santa Fe to pick up information from Fuchs in early June, 1945. On his return trip, he stopped off in Albuquerque, where he contacted David and Ruth Greenglass. David Greenglass was in the army, working as a machinist on the atom-bomb project at Los Alamos. He was the brother-in-law of Julius Rosenberg and, according to his subsequent testimony, Rosenberg had recruited him to spy for Russia. Greenglass later testified that he first gave Julius some secret details of the atom-bomb project while in New York on furlough on January 1, 1945. Ethel Rosenberg, the Greenglasses were to testify, retyped this material for transmission to the Russians, and Rosenberg made arrangements with Greenglass at this time for the subsequent pickup of information at Albuquerque. According to both Greenglass and his wife, Rosenberg had torn a Jello box top (or box side, the versions slightly differ) in an irregular pattern and had said that the courier who would come for information would present the matching half. Gold testified that he had been given the matching piece of box top by Anatoli A. Yakovlev, the Russian Vice Consul in New York. As may be seen, the entire atom-spy case hinged upon these dovetailing tales of Gold and Greenglass; for, though Gold had had no direct contact with Rosenberg, the details to which he testified inevitably implicated Rosenberg. One of the most dramatic of these details was Gold's account of the manner in which he supposedly appeared out of the blue at the Greenglasses' door in Albuquerque, flashing his half of the Jello-box talisman, and introducing himself with the magic words, "I come from Julius."

Greenglass produced sketches of the lens mold of the atomic bomb, and Gold handed Greenglass an envelope containing $500. Returning to New York, Gold transmitted the lens-mold sketches to Yakovlev; and, at the trial, Gold testified that the Russian subsequently told him "the information I had given him some two weeks previous had been sent immediately to the Soviet Union. He said the information which I had received from Greenglass was extremely excellent and very valuable." This was the basis for the grotesque magnification of the Rosenberg case into "the crime of the century."

To support this entire fabric of the dovetailing stories of Greenglass and Gold, there were just two bits of documentary evidence—a June 3, 1945 hotel registration card and a bank record showing that Ruth Greenglass had opened an account with a $400 deposit the day after Harry Gold left Albuquerque. The hotel registration was basic; for, if the Hotel Hilton registration for Gold was legitimate, it would establish that he had been in Albuquerque at the time he testified he was, and this, tied up with the immediately following bank deposit, would tend to support the entire account of espionage.

From the first, there were implausibilities that challenged belief, but they never had a chance to register with the jury because Emanuel Bloch, the Rosenbergs' attorney, incredibly chose not to challenge a single item of the Gold story. Yet Gold, who had admitted in a previous trial that he had habitually told so many lies over a period of years that it was a wonder "smoke didn't come out of my ears," was a witness who was a sitting duck for a stiff cross-examination, and his account of his adventure in Albuquerque was loaded with inconsistencies. As Gold told it, he arrived in Albuquerque on a Saturday night; he went to see the Greenglasses; he found they were out for the evening, but would be home Sunday. He then found himself space for the night in the hallway of a rooming house, and *the next morning,* Sunday, he registered at the Hilton *just for the day.* He never intended to stay overnight at the Hilton because he had to get back to New York fast to keep a prearranged June 6 date with Yakovlev. Then why did he register for a hotel room he wouldn't need?

This question led John Wexley in *The Judgment of Julius and Ethel Rosenberg* to challenge the genuineness of the hotel card and to theorize that it could have served only one

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purpose—the prosecution's courtroom purpose of establishing that Gold had indeed been in Albuquerque when he said he had. In his investigation, Wexley discovered that there had been a second Hilton Hotel registration card that was never produced at the trial. This showed that Gold had registered at the Hilton on a subsequent trip on September 19, 1945. Wexley was puzzled because it was clear the September trip could have had no connection with Greenglass, who was on furlough in New York at the time. Therefore, why would Gold go to Albuquerque in September when the contact whom he would presumably have gone to meet was in New York? On the basis of this reasoning, Wexley concluded that both hotel cards must be forgeries, and he theorized that the Hotel Hilton had been chosen for the deed because it was the only one in the area that kept hotel registration cards on file more than three years—and so the only hotel that could have had the needed documentation when the FBI came searching in 1950.

The Schneirs have carried Wexley's research several leagues onward. They discovered that the June card, though dated the 3rd on its face, had been time-stamped on the back: "June 4, 12:36 P.M." All hotel officials agreed that the time stamp would be the accurate record. But by June 4 Gold was on his way back to New York to meet Yakovlev, and Greenglass had returned early in the morning to his army chores. What this time stamp said, in effect, was that the elaborately constructed courtroom case couldn't have happened as Gold and Greenglass had testified it happened. But the Schneirs' discoveries were only beginning.

Their interest was further aroused when they learned that FBI agents had spent several days in the hotel attic, sorting through back records. Under the hotel's filing system, it should have required only a matter of minutes to locate the registration cards of Harry Gold. Why this protracted search? (The Schneirs theorize it may have been necessary to determine what rooms were available on June 3, who was on desk duty, etc.) More vital was the Schneirs' discovery that both the June 3 and September 19 registrations had been initialed by the same desk clerk—A.K. At this point, suspicion became virtually confirmed. One does not need to be a handwriting expert to come to the almost instant conclusion that there was remarkably little resemblance between the neat, clear penmanship on the September 19 card and the harsher, upward-slanting lines (they look as if they had been traced by a left-handed writer) on the June 3 registration.

At this point, the Schneirs decided to trace A.K. She turned out to be Mrs. Anna Kinderknecht Hockinson, now living in Florida. Mrs. Hockinson furnished the researchers with examples of her handwriting, and these, together with photostats of the registration cards, were turned over to Mrs. Elizabeth McCarthy, an attorney and a document expert for the Boston police and the Massachusetts State Police. Mrs. McCarthy concluded that Harry Gold had in all probability signed both cards, but she found that the June 3 card bore evidences of being a forged document. Its typing and spacing varied in minute but important details from that on the September 19 card, and the desk clerk's writing did not appear to be that of Mrs. Hockinson.

Mrs. McCarthy could give only a qualified opinion since she was working from photostats. This handicap was the result of one of the series of fantastic blunders, if that is what they were, by which Bloch helped the prosecution insure the conviction of his clients. Irving Saypol had waited until Gold was off the stand, dismissed without a single question in cross-examination, before he gingerly informed the court and the defense that he had *a photostat* of Gold's June 3 Hotel Hilton registration. The original, he said, was being flown from Albuquerque, and he had a witness who would testify to it; but it might simplify things all around if Bloch would just stipulate that this was the card. Ever obliging, Bloch stipulated—and thus relieved the government of the necessity of *proving* anything about this vital bit of documentation. As a result, no document examiner can now study the original to compare its composition and its ink with other cards of the June period in the Hilton Hotel files.*

In this context, another of the Schneirs' discoveries seems important. It is an invariable FBI practice, when documentary evidence of this nature is discovered, for the FBI agents unearthing it to initial it and append the case number. The back of the September 19 card contained the date it was unearthed in the Hilton files, May 25, 1950, the initials of three FBI agents and the FBI code designation, "65-6." The back of the June 3 card was blank except for the initials of the hotel manager.

If the Schneirs' researches had ended here, their work would have been infinitely significant and valuable, though it would have stopped short of the final full measure of proof. But the Schneirs did not stop. They added the final and vital ingredient. They unearthed the details of the story as Harry Gold originally told it before it was refined and altered for its courtroom presentation.

Parenthetically, it should be noted that the record is clear and undeniable concerning the veracity of Harry Gold: he was a pathological liar. In the Brothman-Moskowitz trial that preceded the Rosenberg case, he had been exposed as such an arrant fabricator that he admitted having regaled his fellow workers for years with a never-ending fantasy about a wife he didn't have, children he didn't have, and domestic discords and problems that were entirely imaginary. In 1955, four years after the Rosenberg-Sobell trial, Gold took the stand in Dayton, Ohio, as the principal witness against one Benjamin Smilg. The defense in this case was handled by William F. Hopkins who did not, as Bloch did, let Gold escape cross-examination and praise him for his candor.

Hopkins, by making use of the Brothman-Moskowitz record that had been equally available to Bloch, exposed Gold for what he was and got him to admit that, in the family soap opera he had concocted, he had lied and lied "for a period of sixteen years, not alone six." Then Hopkins questioned Gold about his appearance before a federal grand jury in New York in 1947 and drew from him the admission that he had lied under oath about far more important matters. This is the sequence:

> HOPKINS: Before that grand jury, the question came up of a man named Golos. . . .
>
> GOLD: Yes, Jacob Golos.
>
> HOPKINS: Before that you didn't know him?
>
> GOLD: I didn't know him before that.

*In a letter to William Kunstler, dated Sept. 10, 1965, J. Edgar Hoover wrote (with reference to the original registration cards of the Hilton Hotel, Albuquerque, for June 3 and Sept. 19, 1945, in the name of Harry Gold) that "due to passage of time these cards are no longer available." *The Editors*

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HOPKINS: Never met him?
GOLD: Never met him.
HOPKINS: Before that grand jury you faced those ladies and gentlemen, under oath, the same as you are facing these folks, and you concocted imaginary telephone conversations, even giving it word for word of what he said to you and what you said to him; is that true?
GOLD: That is true.
HOPKINS: And you didn't even know the man?
GOLD: I didn't even know the man.
HOPKINS: Never had had a telephone call?
GOLD: Never had a telephone call.
HOPKINS: And you were under oath?
GOLD: And I was under oath, yes, sir.

In view of such a background, it becomes of the utmost importance to ascertain what tales Gold told *before* any lengthy conference with FBI agents. This is the crux of the Rosenberg case, as it has been the crux of other cases throughout the witch-hunt era. Whittaker Chambers, the accuser of Alger Hiss, was an admitted perjurer. Elizabeth Bentley, the nemesis of William Remington, changed her testimony like a weather vane whirling in a williwaw, in order to meet the changing needs of the prosecution. In all these cases, important aspects of step-by-step changes of testimony are hidden in closely guarded secret files of the FBI, under the pretense that the very security of the nation depends upon the preservation of such secrecy. In this perspective, perhaps one of the greatest contributions the Schneirs have made lies in the fact that they found a way to tear aside the veil; they have produced Harry Gold's pristine recollections—and by contrasting this testimony with that which was presented in court, they make a strong showing for a rigged case.

The Schneirs credit Robert Morris and the Senate Internal Security Committee with an unconscious assist in this endeavor. In 1956 the Senate committee brought Harry Gold back to the stand for some more revelations; in publishing his testimony, it appended two statements that he had written for his attorney, John D. M. Hamilton, one-time chairman of the Republican National Committee. Each statement had been written by Gold *months before* the Rosenberg-Sobell trial. In one of these statements, Gold explicitly contradicted "the crime of the century" trial testimony he was soon to give. "Yakovlev . . . told me that the information received (from Greenglass) was of *no value*," he wrote. (Italics added.)

The other statement indicated that Harry Gold's mind was being changed about substantive facts, not as he testified at the trial by any direct word he received from Russia, but by what *he was being told* while in custody. "Earlier, I have said that I believed the information to have been unimportant," he wrote, "but I *have since learned that it was highly valuable*. . . . Greenglass was a machinist and *I have been told* that he worked on a very important phase of the bomb assembly." (Italics added.)

Gold further disclosed that *he couldn't even remember anything* about the rendezvous with Greenglass when the FBI first began questioning him. He said he told agents "the full story about my relationship with Klaus Fuchs in every detail . . . the David Greenglass incident I had actually completely forgotten about . . . until some time after my arrest, all memory of this incident had fled from me. . . . *And I had forgotten the man's name completely.*" (Italics added.)

How, if Gold had "completely forgotten" the man's name, did he later come to identify David Greenglass so emphatically? He explained—and this is perhaps one of the most incredible parts of the story—that this is what was done:

> *A list of some twenty names was selected; first we eliminated the least likely ten; then we cut the list further; finally a group of the three most likely was chosen, and lo, Greenglass' name was at the top. For the wife's name we did likewise and again "Ruth" headed the list.*

The peephole that Robert Morris and the Senate Internal Security Committee had unwittingly opened into the maze of the Rosenberg-Sobell case encouraged the Schneirs to press their researches further. They learned that John D. M. Hamilton had recorded on disks lengthy conversations in which Gold presumably had told his attorney the full truth shortly after his arrest and *before* the arrest of Greenglass and the building of the atom-spy case. So the Schneirs went to Philadelphia and saw Hamilton. The attorney told them they would have to get Harry Gold's consent to gain access to the material in his

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Poems: W. S. Merwin

In Autumn

The extinct animals are still looking for home
Their eyes full of cotton

Now they will
Never arrive

The stars are like that

Moving on without memory
Without having been near turning elsewhere climbing
Nothing the wall

The hours their shadows

The lights are going on in the leaves nothing to do with evening

Those are cities
Where I had hoped to live

After the Solstice

Under the east cliff the spring flows into the snow

The bird tracks end like calendars

At noon white hair
Is caught in the thorns of the abandoned vineyard
Here the sky passed

The old are buried all down the slope
Except the wrists and the ancient
Message *We are with no one*

At midnight we raise their wine to tomorrow

Crows on the North Slope

When the Gentle were dead these inherited their coats
Now they gather in late autumn and quarrel over the air
Demanding something for their shadows that are naked
And silent and learning

The Cold Before the Moonrise

It is too simple to turn to the sound
Of frost stirring among its
Stars like an animal asleep
In the winter night
And say I was born far from home
If there is a place where this is the language may
It be my country

New Moon in November

I have been watching crows and now it is dark
Together they led night into the creaking oaks
Under them I hear the dry leaves walking

That blind man
Gathering their feathers before winter
By the dim road that the wind will take

And the cold
And the note of the trumpet

December Among the Vanished

The old snow gets up and moves taking its
Birds with it

The beasts hide in the knitted walls
From the winter that lipless man
Hinges echo but nothing opens

A silence before this one
Has left its broken huts facing the pastures
Through their stone roofs the snow
And the darkness walk down

In one of them I sit with a dead shepherd
And watch his lambs

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files. The Schneirs wrote to Gold, and much to their surprise, Gold authorized Hamilton to give them full access to everything. The result was that the Schneirs got the opportunity to play back the Harry Gold disks and to hear Gold telling his attorney in his own words just what had happened.

The key recording was one that Gold made for Hamilton on June 14, 1950, exactly one day before the FBI moved in on David Greenglass and his wife. At this point, Gold had been questioned for 102 hours by FBI agents: his blank mind had been refreshed about his trip to Albuquerque. But it is highly significant that after 102 hours of questioning and collaboration with the FBI—at this point midway between the original nothingness and the final dramatic story told on the witness stand—the vital details of that espionage trip as Gold recalled them bore virtually no resemblance to the court-presented case.

On June 14, 1950, Gold told his attorney that on his 1945 trip to Albuquerque he had stayed in a rooming house overnight on Saturday, and on leaving the rooming house Sunday morning, he had "checked my bags at the railroad station." He made no reference to any stay at the Hotel Hilton on June 3, 1945, and the specific detail that he had checked his bags at the railroad station seems to clinch the argument that he never went near the Hilton — and that the June 3 registration card is a forgery.

In his trial testimony, Gold was to claim that Yakovlev had given him a slip of paper with the name "Greenglass" on it and an address on "High Street." He was to testify: "I introduced myself to Greenglass as Dave from Pittsburgh. . . . Greenglass introduced me to his wife Ruth. Mrs. Greenglass said it was a coincidence that my first name and the first name of her husband were the same." All of this petty and seemingly authentic detail, related so positively by Gold at the trial, was absolutely missing from his recollection on June 14, 1950, after 102 hours of collaboration with the FBI. In this recording, he never mentioned Greenglass by name (maybe the grab-bag name game hadn't been played yet), but kept referring to him as "the GI" and "his wife." He said specifically: "I don't remember the name of the street. . . ." And as for that charming bit about the matching names of Dave, it never happened. Gold told his attorney that he had introduced himself to "the GI" by "the name of Mr. Frank, possibly Raymond Frank, possibly Frank (indistinct)."

Once more, in this recorded interview, Gold indicated that whatever information he may have brought back from Albuquerque was inconsequential. He told Hamilton that he "turned the information over to John (Yakovlev); John never mentioned anything about it." At another point in the recorded interview, Gold said he had later reminded Yakovlev that "the GI" was going to be home in New York on furlough. Perhaps they should contact him? But Yakovlev, he said, told him "we could forget all about him . . . apparently the information received had not been of very much consequence at all and that they believed the risk attendant upon seeing him did not make any such effort worth while."

At the trial, Gold was to testify that Yakovlev had written out for him, along with the Greenglasses' name and address, the recognition code: "I come from Julius." He testified that he introduced himself with these damning words—the words that virtually put the Rosenbergs in the electric chair. He testified that he had presented his matching piece of the Jello box—a talisman that had been given to him by Yakovlev and that, if it ever existed, would establish the conspiracy because Yakovlev could have received it only from Rosenberg. Yet none of this vital evidence appears in Harry Gold's June 14 recital to Hamilton after 102 hours of collaboration with the FBI. Indeed, at one point, Hamilton himself raised the question about how Gold had been expected to identify himself to "the GI."

> HAMILTON: I want to interpolate something at this point. Didn't you have some recognition signal as between the two of you?
>
> GOLD: Yes, we did, and while this is not the exact recognition sign I believe that it involved the name of a man and was something on the order of Bob sent me or Benny sent me or John sent me or something like that.

Not yet born, evidently, was the dramatic detail of the Jello box top; not yet born those words that were to condemn Rosenberg and his wife, "I come from Julius."

But how, one may ask, was David Greenglass brought to testify against his sister and to send her to the electric chair if there was no truth to the case? The answer plumbs abysmal depths of the human mind. A confidential memo in the files of the Greenglasses' attorney, O. John Rogge, shows that Ruth Greenglass stated her husband had a "tendency to hysteria." She told her attorneys, according to the memo, that she had known him since she was 10 years old and he "would say things were so even when they were not." It is admitted that Greenglass had stolen a piece of uranium from Los Alamos, and there are suggestions in the record that he may have been stealing government property and hocking it in the black market, an activity that might explain, not just the $400 bank deposit on June 4, 1945, but deposits in other accounts that the Greenglasses maintained in other banks in Albuquerque. It is clear, too, from the memos in the Rogge files that one of the first things that suggested itself to Greenglass and his wife, when the FBI came questioning, was full cooperation. The circumstances suggest that Greenglass was a man in trouble, and a man in need of a deal.

Benjamin Pollack subsequently interviewed Greenglass in Lewisburg Penitentiary while preparing a report

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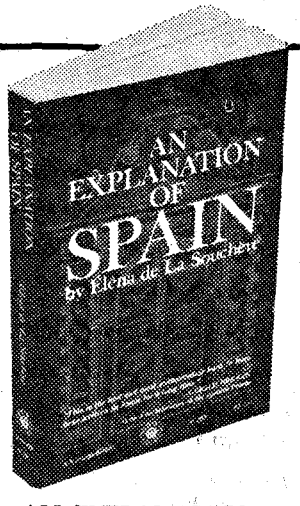

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on the case for Attorney General Herbert Brownell. The report has been classified as a secret document, but its tenor may be gleaned from Pollacks' frank comments to the Schneirs when they interviewed him. Pollack apparently experienced an almost instant revulsion when Greenglass greeted him with the boast, "I'm the smartest man you ever met." The Justice Department attorney told the Schneirs frankly that Greenglass impressed him as a man who had "no conscience at all," and he added: "If I were a judge, I wouldn't take his testimony too seriously." Significantly, Greenglass complained to Pollack about the "raw deal" he had received and disclosed that he was "the most shocked man in the world" when, after testifying for the government against his own sister and her husband, he failed to get a suspended sentence.

The ugly possibility of judicial murder, so strongly advanced by the Schneirs' work on the Rosenberg case, is especially horrible because it reached a climax in the electric chair in Sing Sing. The question inevitably arises: Why? Why should this have been? Why would the agencies of government build a fraudulent case against innocent persons?

The motivation can be understood, I think, only in the context of the times. The groundwork for the Rosenberg case was laid in those pre-election months of 1948 in which the Alger Hiss and William Remington cases were pumped into scare headlines by Congressional witch hunters. The purpose was to splatter the New Deal, the Fair Deal and all liberalism with the Communist tar brush. That the Russians had stolen our atomic "secrets" with the help of pro-Communist American traitors became a sacred tenet of the House Un-American Activities Committee, and this was reflected and reiterated in daily newspaper headlines.

As the Schneirs make clear in earlier sections of their well-documented book, we possessed no secret. The theory of the release of the power of the atom was known to scientists of every nation. Once the Hiroshima bomb was exploded, we revealed our only real secret—the fact that theory could be made to work. It was only a question of time (and relatively short time at that) before others would duplicate our feat. Our scientists appreciated this reality and tried to make their voices heard, but they were drowned out by the raucous cry of the witch hunt.

In that period, lives and reputations were ruined and public policy and justice formulated on the word of discredited informers. This should never be permitted to happen again; but there is no guarantee that it will not, so long as we allow an agency to exist with such potential power for harm and with total immunity from public scrutiny. Prior to the Jencks ruling of the United States Supreme Court, defense attorneys could not compel the release of the *original* accounts related by informers to the FBI. Now the disquieting question of "frame-up" must be opened, even if this leads directly to the sacred files of the FBI, by a commission appointed by Congress or the President. Otherwise we are being asked to continue to believe that psychotically twisted individuals—the Whittaker Chamberses and the Elizabeth Bentleys, the Golds and the Greenglasses—are the true heroes and heroines of our culture.

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SOUTHERN JUSTICE. Edited by Leon Friedman. Foreward by Mark DeWolfe Howe. Pantheon Books. 306 pp. $5.95.

George Feifer

If you are born black in the deep South, you are taught to stay down or get hurt. That's life and that's the law. Each shapes and is shaped by the other toward an overriding goal: white supremacy. *Southern Justice* examines the role of Southern courts in this process, particularly as they operate to destroy civil rights. It is a collection of seventeen short essays by nineteen lawyers who have worked in the South. We are given descriptions of special anti-civil rights legislation passed by Southern states (there is a recent Mississippi statute providing criminal sanctions for the birth of a second illegitimate child!); detailed narratives of illuminating cases tried in lower Southern courts by contributors to the book; analyses of Southern court systems, trial and appeal, state and federal, in an attempt to devise the best among unsatisfactory methods of protecting Negroes and helping their struggle for equal rights; and some general statements about the federal government's responsibility — and its reluctance to shoulder it—in protecting the rights of citizenship in the United States. The essays bear the marks of legal scholarship: they are restrained and analytical, factual and unemotional —and all the more effective for that. They schematize the *system* of injustice which dominates the South.

The system is quite simple. The people who burn churches and blast houses, who refuse to desegregate public schools or register Negroes to vote—who violate the civil rights of Negroes in a hundred ways—are virtually immune to prosecution. For local law-enforcement officials share the attitudes of the white communities which elect them; in fact, they are often among the communities' most violent segregationists. Those to whom Negroes must appeal to right civil wrongs—state troopers, sheriffs, lawyers, district attorneys, mayors, registrars, judges—are usually dedicated to holding Negroes down or hurting them. Those who are entrusted with administering justice tacitly condone injustice and violence, or explicitly encourage the wrongdoers, or actively participate in the wrongdoing. "As a result," writes one of the contributors, ". . . 'law and order' is nothing more than local white custom, i.e., the Southern Way of Life, 'underlaw.' "

In local courts of first instance, underlaw, the living law, is very often the reverse of the written law. The

George Feifer is the author of Justice in Moscow (*Simon & Schuster*).

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few minor victories achieved, after painful effort, by the volunteer lawyers who contributed to this book are the exceptions that prove the rule. No great powers of imagination are required to picture what would have happened in these cases had they not appeared as counsel for the defense.

Appeal to higher state courts rarely brings satisfaction; for these too are staffed largely by men whose first allegiance is to white supremacy. Judges honorable in other respects lose their sense of honor when dealing with the civil rights of Negroes. They resort to all manner of subtle and not-so-subtle tricks of the judicial trade—including lying, when necessary, to maintain the old order. With respect to civil rights, "the state's legal process has become a sham, used not to grapple with tenacious questions of fact and law, guilt or innocence, but solely to maintain class and race power."

But state courts accomplish something much more pernicious than merely dispensing injustice. They also do their best to thwart the intentions of federal law and of the Supreme Court, depriving Negroes of new rights of citizenship as they have deprived them of the old. The Supreme Court cannot do more than establish guiding principles in a smattering of significant cases, relying on lower courts to "give them flesh." But through the use of a wide range of tactics described in these articles, state courts, even state supreme courts, flout both letter and spirit of Supreme Court decisions, with full knowledge of, and delight in, their disobedience. For Negroes, the supreme law of the land is powerless before underlaw. For the nation, the very foundation of our constitutional system is undermined.

This leaves the federal courts as the only channel of progress—an unsatisfactorily shallow and narrow one. For although many cases are now quickly removed from state to federal jurisdiction, many others are not, and there is something barbaric about forcing Negroes to exhaust all possible "remedies" in state courts before permitting them to apply for relief to the federal judiciary. (The Alabama Chapter of the NAACP was forced to cease operating for eight years, from 1956 to 1964, because of the ponderous operation of the law in reversing the effects of an obviously unconstitutional "temporary" order by an Alabama state circuit court.) Besides, even when civil rights matters do come before lower federal courts in the South, Negroes are often treated shabbily; for the federal courts too in the deep South are staffed almost entirely by Southern white men.

This is not to say that the federal courts have failed to help the "Negro revolution." Many federal judges, acting on their consciences, have spoken out courageously to give the written law some meaning; and other judges, acting on the knowledge that in the federal judicial system legitimate grievances may sooner or later be heard, have kept their own segregationist passions somewhat in check. Honest work by a handful of federal judges is changing too little too slowly. (A decade after the Supreme Court decision in *Brown,* to take the most obvious example, less than 1 per cent of Negro pupils in the eleven states that comprised the Confederacy are attending integrated schools.) If there is a consensus among the contributors to *Southern Justice,* it is that the federal government must do more, very, very much more, to end the massive violation of federal law that is tolerated and encouraged in the deep South.

Recommendations for increased federal protection within and without the court system are made, some of them novel, most of them well known. But as several commentators point out, there has been no lack of recommendations — and no lack of federal authority and power to implement them. What is lacking, simply, is will. The value of this book is its demonstration that little, really, has changed in the South and its raising again the great question of why the federal government does not use its powers to bring about the change that the President professes to desire. There is a "continuous and total violation of the constitutional rights of every Negro citizen" in several of our states. This we tolerate because we are willing to, not because we must.

I cannot end without mentioning my own reaction to these articles. Why is it, I wondered, that they affected me so mildly? They are full of descriptions of outrageous miscarriages of justice, full of details about the frustrating, appalling, gruesome experiences of all who are not white supremacists in Southern courts. That the law is used to support and enshrine injustice is, as a federal judge said ninety years ago, a greater stain on our civilization than any crimes with which the law is meant to deal. Yet the violations of civil and human rights described here did not shock me; what shocked me was my calm.

It was a calm bred, I am afraid, by a sense of familiarity. After all, we have all known for some time that Southern courts behave *something* like this. The details of how Southern jurists pervert the law are fascinating in the way that the details of the Moscow trials are fascinating. But there is nothing new, nothing remarkable about the pattern of evil in Southern courts. We have all known, at the very least from a scanning of headlines, what happens when Southern men are tried in Southern courts for the murder of a Medgar Evers, a Viola Liuzzo and a Jonathan Daniels. Nothing in this book is more shocking than those trials, conducted with full national publicity, and in full keeping with the Southern way of life. I am afraid that what I read in *Southern Justice* seemed normal. Last year's outrages, broadcast and headlined and photographed daily, become this year's commonplaces. When one has supped full of horrors, he loses his power to be stunned—which is the greatest horror.

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perspective, that I am beginning to grasp again what it means to a society and its people when the law is used not to protect those suffering from injustice, but to wound them still more. And I am beginning to feel an antipathy again to those responsible for perpetuating this grotesque system, from President Kennedy, some of whose appointments to federal district courts in the deep South were inexcusably bad, to the justice of the peace in Oktibbeha County, Miss., who held court in his greasy gas station. The defendant was an 18-year-old Negro civil rights worker who was forced off the road by a white truck driver—and prosecuted for reckless driving on the latter's recommendation. "These boys here," said His Honor to the defendant's lawyer, pointing to the six white toughs who composed the jury, "would sure admire to play a game with your boy. We call it Dropkick the Nigger."

That Man, Those Years

WAGING PEACE: The White House Years, 1956-1961. By Dwight D. Eisenhower. Doubleday & Company. 741 pp. $6.95.

Paul Jacobs

Everything in *Waging Peace* can be completely anticipated, and yet it is unbelievable. It is not merely that the President writes woodenly, nor that he is writing about a wooden period of administration. (After all, he was a general, not an essayist, before his election.) But what is so startling about this book is that it is such a clear expression of Eisenhower's view of the country and the Presidency, a view which so clearly matches one very important strain in American life. In that sense, the book is a mirror of the attitudes held by a majority of the voters in 1952, again in 1956, and by a huge minority in 1960, when Nixon lost to Kennedy by only 113,000 votes.

Take the clichés which dot the book: describing a visit to England in 1959, President Eisenhower writes, "Finally we reached the Embassy residence and settled down for a short but pleasant evening with Ambassador Whitney and his charming wife, Betsey." On the next page, he says, "We went to pay a visit to the Queen Mother, that gracious lady, who lived in a modest dwelling not far from the castle," and ends, on the same page, with: "At the afternoon picnic by the lake, the Queen acted as hostess and simple housewife, gracefully cooking the 'dropped scones' over a charcoal burner. . . ." Later, he describes a series of "satisfying and reassuring talks" with Chiang and his "charming wife." Indeed, throughout the book, all women are charming, at the very least.

But such writing, painful as it is to read, would hardly be important if it did not reflect the ugly truth: during all the years of the Eisenhower administrations, our policies, domestic and foreign, were seen by the President as merely the extensions of moral clichés. From a reading of *Waging Peace*, there seems to be no doubt that Eisenhower really believed in these clichés, and was bewildered, genuinely, when they did not operate effectively as a guide to policy. Unlike Johnson, who is overtly cynical about politics, and Kennedy, who masked his understanding of the political process with an elegant style, Eisenhower is the prototype of the poor boy who made good and then believed everyone capable of doing the same.

The dilemma of the Eisenhower years was that the country, under his administration, was never able to go beyond the boundaries of the clichés, and especially those in which the Presidency was viewed as being above politics. This concept, combined with Eisenhower's continuous reluctance to engage in a real political dispute, either with McCarthy or over the civil rights issue, resulted in government by default. The institution survived the leader, but only just.

Recently, the ex-President said that he sometimes conjures up a vision of himself in those days: "You see a poor, rather stupid fellow sitting behind a desk and you wonder why he couldn't do better than that. Unfortunately, that picture comes up too often."

Unfortunately, too, that same vision emerges very clearly from a reading of *Waging Peace*. It is as if Warren Harding had lived into the 1950s and been forced to cope with such bewildering problems as the cold war, the civil rights revolution, McCarthyism, a rising rate of unemployment and political instability in every part of the world. *Waging Peace* is, I am sure, a true if necessarily incomplete picture of how Dwight Eisenhower attempted to cope with these problems. In that sense, the book is no more feeble than the policies it describes.

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MUSIC

Benjamin Boretz

AGAIN, THE FORD MILLENNIUM

The $85 million program in support of American orchestras announced last month by the Ford Foundation is perhaps the most extreme instance of pure foundationism ever perpetrated on our aching national culture. For of all foundation programs in either the arts or the sciences of which I am aware, this one is most blatantly addressed to the maintenance of a certain level of activity without the least concern for the level of cultivation or responsibility on which it takes place. Given Ford's catastrophic experiences in some of its previous arts programs, notably in opera, where the various objectives, conditions and limitations that were enunciated resulted mainly in artistic fiasco, public embarrassment and undying professional resentment, one can understand the attractions of a program of neuter ideological and critical content,' which would nevertheless permit the disgorgement of a huge chunk of tax money for an apparently rational purpose, and allow the sounding of monumental verbal fanfares about ". . . historically . . . the greatest act of philanthropy in the arts by a single national agency."

An adequate description of the entire program is shockingly easy: essentially, Ford has surveyed the condition of American symphony orchestras and found it excellent in all respects except financial. It therefore intends to release $21 million outright and $64 million on a matching basis to orchestras in two categories—"major" and "metropolitan,"

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based entirely on budgetary measurement — for application toward expenses and endowments. In the long announcements released by the foundation, there is not a single mention of a projected responsibility or content for future orchestral activity, only of its desired proliferation and security. Indeed, the Ford directors have become so principle-shy that they carefully avoid even any assertion that the activity in any way actually justifies the support being offered, or that musical culture as a whole has any importance — ornamental or otherwise — in American national life, beyond such bold declarations as Mr. Henry T. Heald's that ". . . a wealthy nation cannot neglect the cultural pursuits that are a part of human fulfillment along with material well-being."

Much more significantly, the obvious problems that are in fact destroying the orchestra as a cultural resource in America are not only euphorically overlooked in the Ford literature, but in many areas actually belied. Thus, no consideration whatever is given to the scope or relevance of programing, to the desperate problem of the development and employment of young American conductors, or to the completely anachronistic relation of available orchestral resources and contexts to the contemporary development of the musical art. The entire affair, in fact, makes one wonder to whom, perhaps in their desperate desire to avoid still more friction, the Foundation's leaders turned for professional advice on the cultural role, responsibilities and needs of American orchestras.

Regardless of the identities of these advisers, however, the degree of unreality in the premises they provided for the Ford Foundation's salvation of American orchestral activity is quite extraordinary. Readers of this column, at least, may be genuinely surprised to learn that "American symphony orchestras . . . are usually the artistic leaders in their community" [*sic*]—when even our most complacent journalists have occasionally noted a certain implicit stagnation in the almost universal prevalence of the notorious fifty-piece orchestral repertory. But I found it even more surprising that "any player in a major symphony has had to spend at least as much time, money, and effort on his education as a teacher. . . . Fortunately, most symphony musicians love music and love playing in an orchestra even though many endure penalties due to their meager salaries. As a genuine professional, the orchestra player is willing to do his best under less than ideal conditions of salary, rehearsal time, or acoustics, but he wants the opportunity to show himself and his orchestra at their best. . . ."

No one who has attended even one orchestra rehearsal—especially of one of our "major" ensembles—where the nature of this "genuine professionalism" is most evident, could be unaware that one of the most serious threats to contemporary orchestral survival is precisely the shocking inadequacies in the musical and instrumental education, professional morale and general cultivation of most orchestral musicians. And not only are they thus poorly equipped to fulfill any sort of responsible cultural role but (even if the widespread legend of their total hostility to all music is somewhat exaggerated) their resistance to any music or any approach that challenges the simplistic routines that define their jealously guarded "professional" domain certainly contributes to the absence of any significant production of new orchestral compositions in America. Apparently, the Ford Foundation sees no reason not to approve and reward such typically "professional" behavior as that of the members of the New York Philharmonic during last summer's French-American Festival in greeting one of our most serious and accomplished young composers whose new work they were rehearsing with a chorus of boos and hisses. And lest this be taken with complacency in satisfaction of anyone's anti-composer inclinations, it should be noted that the richest folklore among orchestral good fellows are the anti-intellectual conductor-hating anecdotes of the "You talk-a too much, Klemp'" variety. Naturally, there are players who practice their instruments despite long years of suffering while playing side by side with their incompetent colleagues, and who have remained aloof from and ashamed of the indifference surrounding them. But to them, especially, Ford's irresponsible endorsement of the *status quo* can seem only a final repudiation of whatever faint hope remained for restoration of musical dignity and value to their professional lives.

Similarly, the principles on which the Ford Foundation intends to evaluate the relative merits of orchestral institutions are surely unique in the history of cultural normatives. One reads that "The American symphony orchestra is surprisingly pre-eminent in terms of age, numbers of concerts, and ubiquity. . . . The Vienna Philharmonic gives twenty-three concerts in a year. The London Symphony performed sixty-six concerts in 1963-64. In the same year, the Boston Symphony gave 121 concerts; the Philadelphia 159; the New York Philharmonic 183. . . . Great ingenuity and energy are being shown by managers in developing new activities and audiences. The New York Philharmonic has not only added pops concerts but last summer free concerts in the city parks. . . . The Carnegie Hall program of bringing American orchestras to New York has pleased New York critics by the quality of the performances. The reviews which orchestras from Minneapolis, Cincinnati, Houston, Dallas and Detroit have received have shown once again that these orchestras measure up to high professional criteria. . . . The eligibility of each . . . orchestra and the amount each receives will reflect the level of its operations, its artistic and managerial stability, the breadth of its musical program, and its capacity to raise matching funds." Despite a first impulse to dismiss such utterances as self-ridiculing and there-

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fore harmless, they acquire a frightening dimension when one considers that they have provided the entire ideational basis for "the greatest act of philanthropy in the arts, etc." For certainly the positive destructiveness of massive misspending is as real as its purely negative toll in crucial opportunities forever missed.

Thus one must regard with great seriousness the absence in the quoted passages or elsewhere in the release of any suggestion that orchestral growth might best be encouraged by explicitly liberating orchestras from their invariable crowd- and critic-pleasing responsibilities. Real damage is done, too, by Ford's evident failure to recognize and encourage the one hopeful sign of orchestral life in recent years: the willingness of a few smaller-city groups to extend their programs into the mid-20th century, to commission new works, and to explore the full range of the traditional literature as well. But this tendency forms no part of Ford's assessment of the vitality of the American orchestral scene; those orchestras mainly responsible for it (Buffalo, St. Louis, Kansas City) are not even mentioned among those capable of living up to "high professional criteria."

As far as the actual effects of the new project are concerned, I see no reason to suppose, as several of my journalistic colleagues already appear to have done, that the same administrators, artistic directors, players and critics who have generated and maintained the present orchestral miasma, should become adventurous, responsible and energetic merely because a great deal of money has suddenly been made unconditionally available to them. And why one should further suppose that any dedicated and educated young musician would be especially attracted to an institution whose imaginative poverty and irresponsibility have thus been officially enshrined and perpetuated is beyond my inferential capacities.

Here, presumably, is Ford's final solution to the culture problem: if an institution can support itself popularly, then both the value of its methods and its cultural significance have thereby been definitively proved, and it therefore deserves additional support by the full resources and prestige of the Ford Foundation. Conversely, to support an aspect or a segment of artistic life manifestly in desperate need of it is apparently regarded as an act of gratuitous interference with natural forces, upsetting balances achieved — between, for example, such equally matched contenders for popular approval as the Boston Pops Orchestra and a twelve-tone composer — within the profession itself. Although the Ford Foundation has never entrusted any of its projects directly to composers at all—they have been involved only functionally in grants to "established" opera companies, to secondary schools, to concert artists and to orchestras—it has managed to grant about $3 million over the last ten years for projects involving new music, of which the cost of operatic productions, high-school residencies, and grants to concert artists accounted for $2,800,000. The relation between the pathetic remainder and the present orchestral grant seems sufficiently eloquent testimony to the Ford Foundation's exclusive regard for the maintenance of public musical appearances. But surely music in America deserves a worthier measure of its cultural value, a less trivial reason to survive.

THEATRE

Harold Clurman

DANTON'S DEATH

A genius, George Buechner (1813-37) wrote *Danton's Death* at the age of 22. The play was so far in advance of its time that it was not given a production till sixty-seven years after its composition. Not only were its technical demands beyond the capacities of the 19th-century stage, but its artistic character and inner significance are difficult to appreciate by any audience not profoundly aware through personal and social experience of the contradictions between action and being, feeling and behavior.

"History walks on two feet," in other words, it is man made. Yet the men who make it are different from what they make. The consequences of the historical process exceed the intentions of those who set it in motion. There is an inexorability in the march of history which almost inevitably overwhelms and discards its leading actors.

Though Buechner was himself a radical, he understood the tragedy of revolution. "The Revolution," he has Danton say, "eats its own children." This is not because of the villainy of particular people. There are no heroes or villains in *Danton's Death*. In this lies one of the most impressive attributes of the play. In brief scenes which move hectically and spasmodically like the turbulent events of history itself, scenes dense with characters of crucial importance who are at the same time almost no more central than the passing fragments of the surrounding mob, one senses the palpably human fabric, the very texture of history.

Danton is that complex of traits which mingles the burning idealism, the passionate energy of the dedicated revolutionary with a voracious sensuality which tends toward passivity, skepticism, even corruption. Embarked on the tempest of his political course Danton finds himself weary of its strain, longing for gratification in creature comforts, those things for lack of which he was propelled into action. He is horrified by the cruelty and chaos released by his initial political impulses and commands. Yet he is incapable of believing that similar violence will be done to himself and his comrades. In every fiber of his being he feels the necessity and justification of revolution but he cannot bear to witness the shattering disruption which the revolution entails. What he has done brings about the negation of those sweet and warm satisfactions for which he is so thoroughly endowed and for which he so desperately yearns. He dies in defiance of his executioners and with a sense of relief that his dilemma is being put to an end.

They are all here—the dramatis personae of the French as of most bloody revolutions: the ascetic Robespierre, ruthless in logic, to all intents and purposes immovably convinced of the justice of his dictates, no matter how painful, and still secretly disturbed by doubts and momentary tugs of pity; St. Just, who with suave sophistry, rationalizes terror; Camille Desmoulins, roused by the ardor of his youthful eloquence beyond the recognition of his own vulnerability; the aristocrats turned radical with a haughty disdain which is part sovereign obligation and part cynical indifference to their own safe-

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ty; the crass bureaucrats, drive without conscience; the women, tender companions who stand by their men to the very end, encouraging their heroics, suffering their defeats; the sluts who live off the detritus caused by the male-engendered upheaval; the addled populace veering from side to side according to prevailing winds and the pressure of their needs. All are presented as straws in the fateful storm of destiny.

So rich a play, it would seem, cannot but produce a tremendous effect on the stage. But a miracle has been wrought at the Vivian Beaumont Theater (Lincoln Center). The play has not simply been rendered dull but made almost wholly unintelligible, communicating next to nothing.

I am not being supercilious when I speak of this as a "miracle." The truth is that I am not quite certain how the phenomenon has been brought about. The actors have strong voices and articulate clearly enough — in fact they are often given to shouting — but one does not really follow what is being said. Meaning somehow fades in mid-air. One does not even enjoy the masochistic pleasure of being bored or outraged; one is simply reduced to a state of inanition. The performance has no definite *presence*; one sits in the theatre as if enveloped in a vacuum.

I am sure that the director, Herbert Blau, a most intelligent man, understands the play. But his understanding has taken no specific shape. The actors have not been transformed through clearly marked characterization. No character lives as a character. (Perhaps the only exception is Robespierre who strikes one as a Republican appointee to the judgeship of a small American town.) Many of the actors appear embarrassed by the words they mouth as if there were a cleavage separating language from the person. The dialogue, more involved in this translation than in any other and certainly less lucid than the original German, seems to issue from inanimate sources.

The scenic scheme, elaborate and expensive, also fails to register. Some of the most important scenes are played on the forestage (really an apron attached to a proscenium) so that instead of creating any sense of environment we get the impression of actors at rehearsal handicapped by lack of props or proper space. Physically the production is altogether without atmosphere except for the mechanics of a revolving stage floor, sliding panels, set pieces advancing toward us on tracks.

My bewilderment at what was happening or not happening in this notable play (which I had previously seen in two different and thrilling German productions) was so upsetting that I began to blame the very edifice in which I found myself. Perhaps, I thought, the theatre itself, a combination of imposing architectural forms, with large esplanades fronted by a gigantic Henry Moore sculpture and a square pool, with an interior which is neither exactly intimate nor epically sweeping, was at fault. But that is going too far! The trouble lies elsewhere. There is some deep incongruity in the assembled elements: the text, the company, the audience (what's Hecuba to them or they to Hecuba?), the premises and the auspices of the occasion.

I have often asserted that a repertory theatre of the sort Lincoln Center aims to provide must be allowed at least three seasons to prove itself. Thus nothing I have said about the first production of the season under the new management must be construed as a condemnation of the entire enterprise, though it is certainly a cause for worry.

FILMS

Robert Hatch

JULIET OF THE SPIRITS

SALT OF THE EARTH

THE RAILROAD MAN

Fellini's *Juliet of the Spirits*, which has come into New York with the kind of journalistic bugling usually reserved for visits by heads of state, turns out to be a millinery and lingerie extravaganza that recalls, though at a level of greater competence, the jaded surrealism of the American cinematic underground. For two and a half hours it proliferates pseudo-psychiatric fantasy in the chemical pastels of technicolor to create a world of marzipan decadence (in all justice, the film must be given credit for projecting a sense of sweet and sticky evil). It is expensive, derivative, self-indulgent and a bore. I have no doubt that Fellini intends his new film to be ironic and sophisticated, but it turns out arch and chic.

At the focus of all the flouncing is, of course, Giulietta Masina, she of the candid eyes and vulnerable smile. As ever Cinderella, it is Signora Fellini's misfortune this time to be deeply in love with a peacock husband (Mario Pisu) who scarcely troubles to conceal his infidelity, and to be subject to baroque hallucinations induced by her present unhappiness, her childhood indoctrination by hysteric nuns and a disposition to put trust in soothsayers, mystics and swamis. Juliet's reveries—her spirits—supply opportunities for the more extravagant Bergdorf Goodman revels, but the somewhat hazy point of the film seems to be that the world of reality has become for her only a degree less whimsical than her dreams. She inhabits a blancmange house in a pistachio and chocolate forest; her next-door neighbor is some kind of sexual technician who is camping out in a derelict mansion liberally supplied with mirrors, who has herself conveyed to the beach in a litter borrowed from some recent Serpent of the Nile production and who entertains playboys in a tree house to which one gains access by an electric-powered wicker basket.

The subconscious is less promising ground for romping entertainment

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than it may seem at first thought. Dreams tend to be clichés and anyone who goes in for deliberately concocting them runs the danger of being more extravagant than original. There was one elegant circus sequence in *Juliet of the Spirits*, and it reminded me that too many long stretches elsewhere in the film looked like Ringling Brothers in its years of desuetude.

The action of the film is the emancipation of Juliet from the domineering illusions of her contemporaries and the crippling superstitions of her past. She wins her freedom with the help of the wraith of her grandfather, a lascivious old atheist who travels about with a bareback rider in a Wright Brothers' airplane. Juliet's friends and family (haughty mother and cruel sisters) are garbed about evenly as Diaghilev hobgoblins and George White show girls. Indeed, the picture could be compressed into a fifteen-minute production number with little loss of content and a great economy of time. A big finale with Mae West stage center.

Twelve years ago, when *Salt of the Earth* was just out of the cutting room and ready for the theatres, Herbert Biberman, Michael Wilson and Paul Jarrico, respectively, director, author and producer of the film, were all on the Hollywood blacklist. Understandably, the picture got few bookings (it's a miracle it got any) and the present "revival" is virtually a first run.

The passage of time may be a help to the picture. Its content exhibits a struggle between a naive and stilted social message and the persuasive and endearing performances of a predominantly Mexican cast. Being in any case a little dated, the pamphleteering can now be accepted as period quaintness, and attention focused on the detail that gives the film vitality.

The story concerns a lead mine in New Mexico, which is on strike because the workers, first-generation immigrants, demand the same pay and conditions as prevail in the "Anglo" mines operated by the company elsewhere in the region. The Mexicans' living conditions are also inferior, and their wives wish that such matters as hot water and indoor plumbing might be made part of the union demands. However, the husbands dismiss these issues—as indeed they dismiss their wives—as not worth a man's serious attention.

A Taft-Hartley injunction bars miners from the picket line. The men are thrown into despair; they would settle. But the wives seize the picket signs from their drooping shoulders, face the wicked bosses with a female defiance they are not equipped to counter, and win both the strike and the respect of their husbands. Solidarity forever and momism, Latin style.

But the performances of Rosaura Revueltas and Juan Chacon as the leading Mexican couple, of Clinton and Virginia Jencks as a husband-and-wife organizing team, and of the supporting cast provide a steady incidence of national contrast and domestic interplay that is as witty and genuine as the film's overall posture is pompously doctrinaire. It is astonishing how these good actors find scope for individuality and a seeming improvisation within the stiff mechanics of the plot. Biberman is a subtle director of human behavior, however simplistic his understanding is (or was) of the war between the reptilian bosses and the noble serfs.

Another film that is a little simple-minded as to plot—but not saved by internal veracity—is Pietro Germi's *The Railroad Man*. This homily in the style of Italian realism tells of an engineer who runs down a suicide, through no fault of his own, but who then, because of a reputation for hard drinking, is dismissed by the company. Comes a strike and the fallen hero of the wine shops scabs from bitterness and wounded pride. Ostracism ensues, but is lifted—by Italian indulgence toward human weakness—in time to afford the exking of the rails the most joyous Christmas of his life—so joyous, indeed, that he dies of a heart attack in the fullness of love for the whole world.

Germi plays the lead himself, and that perhaps explains why he undertook the film. It is a role to delight the swashbuckler that lurks in every actor. The film is easy remorse and healing embraces all the way home—immoral like all sentimentality in that it teaches that a man may dance his life and not pay the fiddler. A shotgun marriage subplot involves the engineer's daughter and a grocery clerk; it also works out to sunshine and the benevolence of tears.

Anarchy Trial

(*Continued from page 358*)

torney uniformly proceeded by information rather than by indictment. This form of charge deprived the defendants of a jury trial, a deliberately imposed discrimination. In other, nonpolitical, cases indictments are commonly used.

A decision to prosecute for political deviation or for large-scale riot is not made by the prosecutor who appears in court, but by the politically responsible administration — in this case, City Hall. The city fathers —and in particular their spokesman, City Counsel President Paul Screvane, recently defeated for the Democratic Mayoralty nomination — belong to that ever-growing school of public officials who are convinced that a problem can be made to disappear if the Reds can be linked to it. Soon after the rioting began, Screvane, then Acting Mayor, proceeded to ascribe the affair to what he called "fringe groups including the Communist Party." In the long, hot summer of 1964 the easy opportunism of a political prosecution was attractive, both as a means of vindicating the police and of avoiding confrontation with the problems which the riot had flung into New York's face.

While the law-enforcement arm of the city administration was hunting for scapegoats, the executive was proclaiming that individuals could not be held responsible for Harlem-type riots. In a speech in Puerto Rico on February 18 of this year, Mayor Wagner said, "There are lions in the street, angry lions . . . we had better do something about these lions, and when I speak of lions I do not mean individuals. I mean the spirit of people. Those who have been neglected and oppressed and discriminated against and misunderstood and forgotten." But this rejection of Yortyism was ignored by the district attorney's office and the police.

The Epton case is a scalding commentary on the irresponsibility and cynicism of the New York power structure. A conviction in the case can only infuriate the Negro masses and obliterate in an important area a claimed distinction between Northern and Southern justice. The Progressive Laborites may take comfort in the validation of their prediction that the law is an instrument of racial oppression and the charge of violence a pretext for preserving the *status quo*. There is little comfort in the situation for anyone else.

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